

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JULIE A KIRKPATRICK
Claimant

FOCUS SERVICES LLC
Employer

APPEAL 20R-UI-04416-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/01/20
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.3(7) – Overpayment of Benefits
PL 116-136 Section 2104(B) – Federal Pandemic Unemployment Compensation

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the April 7, 2020 (reference 02) unemployment insurance decision that denied benefits to the claimant based upon her voluntarily quitting work. The parties were properly notified of the hearing. A telephone hearing was held on June 8, 2020. The claimant, Julie A. Kirkpatrick, participated personally. The employer, Focus Services LLC, was represented by Karina Holt and participated through witness Angie Greve. The administrative law judge took official notice of the claimant's unemployment insurance benefits records.

ISSUES:

Did claimant voluntarily quit the employment with good cause attributable to employer?
Has the claimant been overpaid any unemployment insurance benefits?
Is the claimant overpaid Federal Pandemic Unemployment Compensation?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed part-time as a customer service representative. Her most recent period of employment began on January 2, 2019 and ended on August 2, 2019, when she voluntarily quit.

Another co-worker in the office had been accused of being a sex trafficker. Claimant alleged that this co-worker made inappropriate sexual comments to her while on the job. The employer has a written policy in place regarding harassment in the workplace. The policy provides that an employee should report the matter to their supervisor and/or human resources and an investigation will be conducted wherein human resources would collect statements from all employees involved. Claimant did not report this matter to the human resources department and no investigation was conducted. Claimant knew that no investigation was conducted because she did not give a statement to human resources. After claimant moved her desk to a different area, the co-worker continued to walk by her desk and look at her. Claimant tendered a written resignation to Mercedes Fuller, who was a supervisor to the claimant.

Claimant's administrative records establish that she has received unemployment insurance benefits of \$2,817.00 from March 1, 2020 through May 2, 2020. Claimant has also received Federal Pandemic Unemployment Compensation benefits in addition to regular unemployment insurance benefits in the amount of \$3,000.00 from March 29, 2020 through May 2, 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

Iowa Code §96.5(1) provides:

An individual shall be disqualified for benefits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

Claimant had an intention to quit and carried out that intention by tendering a written resignation. As such, claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973).

Iowa Admin. Code r. 871-24.25(21) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

- (21) The claimant left because of dissatisfaction with the work environment.

In this case, the claimant never reported any incidents to human resources so that an investigation could ensue regarding her allegations against a co-worker. She knew no investigation began when she reported allegations to Mercedes because she was never asked to provide a statement. Further, claimant never told the employer that she was going to quit due to health reasons prior to her putting in her resignation.

As such, the claimant's voluntary quitting was not for a good-cause reason attributable to the employer according to Iowa law. Benefits must be denied. Because benefits are denied, the issues of overpayment of benefits must be addressed.

Iowa Code § 96.3(7)a provides:

7. Recovery of overpayment of benefits.

a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

Because the claimant's separation was disqualifying, benefits were paid to which she was not entitled. The unemployment insurance law provides that benefits must be recovered from a claimant who receives benefits and is later determined to be ineligible for those benefits, even though the claimant acted in good faith and was not otherwise at fault. The claimant is obligated to repay to the agency the regular unemployment insurance benefits she received, \$2,817.00 from March 1, 2020 through May 2, 2020.

The next issue is whether the claimant is overpaid Federal Pandemic Unemployment Compensation benefits. The administrative law judge finds that she is.

PL116-136, Sec. 2104 provides, in pertinent part:

(b) Provisions of Agreement

(1) Federal pandemic unemployment compensation.--Any agreement under this section shall provide that the State agency of the State will make payments of regular compensation to individuals in amounts and to the extent that they would be determined if the State law of the State were applied, with respect to any week for which the individual is (disregarding this section) otherwise entitled under the State law to receive regular compensation, as if such State law had been modified in a manner such that the amount of regular compensation (including dependents' allowances) payable for any week shall be equal to

(A) the amount determined under the State law (before the application of this paragraph), plus

(B) an additional amount of \$600 (in this section referred to as "Federal Pandemic Unemployment Compensation").

....

(f) Fraud and Overpayments

(2) Repayment.--In the case of individuals who have received amounts of Federal Pandemic Unemployment Compensation to which they were not entitled, the State shall require such individuals to repay the amounts of such Federal Pandemic Unemployment Compensation to the State agency...

Here, the claimant is disqualified from receiving regular unemployment insurance benefits. Accordingly, this also disqualifies claimant from receiving Federal Pandemic Unemployment Compensation. In addition to the regular benefits claimant received, the claimant also received an additional \$3,000.00 in Federal Pandemic Unemployment Compensation benefits from April 5, 2020 through May 2, 2020. Claimant is overpaid and required to repay those benefits as well.

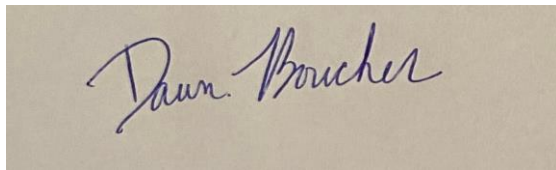
Note to Claimant: If this decision determines you are not eligible for regular unemployment insurance benefits and you disagree with this decision, you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits due to disqualifying separations, but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.

DECISION:

The April 7, 2020 (reference 02) unemployment insurance decision is affirmed. Claimant voluntarily quit employment without good cause attributable to the employer. Unemployment insurance benefits are denied until the claimant has worked in and earned wages for insured work equal to ten times her weekly benefit amount after her separation date, and provided she is otherwise eligible.

The claimant has been overpaid regular unemployment insurance benefits of \$2,817.00 for the weeks between March 1, 2020 and May 2, 2020 and is obligated to repay the agency those benefits.

The claimant has also been overpaid Federal Pandemic Unemployment Compensation benefits in addition to regular unemployment insurance benefits. Claimant is overpaid \$3,000.00 in Federal Pandemic Unemployment Compensation benefits from April 5, 2020 through May 2, 2020 and is obligated to repay the agency those benefits as well.

A handwritten signature in blue ink on a light-colored rectangular background. The signature reads "Dawn Boucher" in a cursive script.

Dawn Boucher
Administrative Law Judge

June 16, 2020
Decision Dated and Mailed

db/sam