

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MICHAEL L DIAS
Claimant

KWIK TRIP INC
Employer

APPEAL 21A-UI-14906-JC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 04/11/21
Claimant: Respondent (1)**

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Iowa Admin. Code r. 871-24.10 – Employer/Representative Participation Fact-finding Interview
PL116-136, Sec. 2104 – Federal Pandemic Unemployment Compensation (FPUC)

STATEMENT OF THE CASE:

The employer/appellant, Kwik Trip Inc., filed an appeal from the June 22, 2021 (reference 01) Iowa Workforce Development (“IWD”) unemployment insurance decision that allowed benefits. The parties were properly notified about the hearing. A telephone hearing was held on August 25, 2021. The claimant, Michael L. Dias, participated. The employer participated through Sharon LeVelle, store leader. The administrative law judge took official notice of the administrative records. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Did claimant voluntarily quit the employment with good cause attributable to employer?
Has the claimant been overpaid any unemployment insurance benefits, and if so, can the repayment of those benefits to the agency be waived?
Can any charges to the employer’s account be waived?
Is the claimant eligible for Federal Pandemic Unemployment Compensation?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed full-time as an assistant store leader and was separated from employment on April 9, 2021, when he voluntarily quit the employment. Claimant was paid for two additional weeks. Continuing work was available.

Prior to quitting the employment, claimant had been on a one month personal leave for personal medical issues. He was required to present medical documentation to the employer to return to work, and in it, the employer was made aware that claimant had been diagnosed with anxiety and was subject to unplanned anxiety attacks. Claimant returned to work on April 5, 2021 and worked. On April 7, 2021, he asked to step down from his job to a less stressful role. He was

told by the employer he would need to remain in the position until the end of the month. Claimant tried working on April 9, 2021. He had taken 2 doses of his anti-anxiety medication and unaware that he would require a third dose. As work became hectic, claimant got upset and anxious. He notified his manager that he needed to put his two weeks in and needing to go home to retrieve his medication. He told Ms. LeVelle he was "done". Claimant had not planned to quit the employment but got upset, wanted to get his medicine and talk to his doctor about what to do. He was informed that if he left, his employment would be over. Ms. LeVelle also told claimant that his anxiety was self-imposed.

The administrative record reflects that claimant has received unemployment benefits in the amount of \$5,412.00, since filing a claim with an effective date of April 11, 2021.

The claimant also received federal unemployment insurance benefits through Federal Pandemic Unemployment Compensation (FPUC). Claimant received \$2,700.00 in federal benefits for the nine week period ending June 12, 2021.

The administrative record also establishes that the employer did participate in a written fact-finding interview or make a witness with direct knowledge available for rebuttal. Employer completed a written questionnaire sent by an IWD deputy. (See administrative records.) No live fact-finding interview or phone call was scheduled.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant's separation from the employment was with good cause attributable to the employer.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

The claimant has the burden of proof to establish she quit with good cause attributable to the employer, according to Iowa law. "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. Industrial Relations Commission*, 277 So.2d 827 (Fla. App. 1973).

Ordinarily, "good cause" is derived from the facts of each case keeping in mind the public policy stated in Iowa Code section 96.2. *O'Brien v. EAB*, 494 N.W.2d 660, 662 (Iowa 1993)(citing *Wiese v. Iowa Dep't of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986)). "The term encompasses real circumstances, adequate excuses that will bear the test of reason, just grounds for the action, and always the element of good faith." *Wiese v. Iowa Dep't of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986) "[C]ommon sense and prudence must be exercised in evaluating all of the circumstances that lead to an employee's quit in order to attribute the cause for the termination." *Id.*

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See 871 IAC 24.26(4). The test is whether a reasonable person

would have quit under the circumstances. See *Aalbers v. Iowa Department of Job Service*, 431 N.W.2d 330 (Iowa 1988) and *O'Brien v. Employment Appeal Bd.*, 494 N.W.2d 660 (1993).

Claimant in this case had a legitimate medical condition and employer was aware of it, inasmuch as claimant had to present medical documentation, alerting the employer he had anxiety after taking a one month personal leave. Claimant requested to drop to a less stressful position to preserve both his employment and his mental health. The employer responded by stating claimant would need to remain in his existing position as an assistant store leader until the end of the month. On his third day back to work, claimant had an anxiety attack when work became too stressful for him. When he notified his manager, he was told his anxiety was self-imposed. Mental health is a serious health issue, and claimant in this case, was diagnosed with anxiety and taking medication for it. Employer's response of not accommodating claimant's reasonable request to be in a less stressful job, go home to retrieve medication and then telling claimant his anxiety was in essence his fault would cause a reasonable person under the circumstances to quit the employment. The administrative law judge concludes the claimant voluntarily quit the employment with good cause attributable to the employer. Benefits are allowed, provided he is otherwise eligible.

Because the claimant is eligible for benefits, the issues of overpayment of regular unemployment insurance benefits and relief of charges are moot. Because the claimant is allowed regular unemployment insurance benefits, he is also eligible for FPUC, provided he is otherwise eligible. See PL116-136, Sec. 2104. The employer is not charged for these federal benefits.

The parties are reminded that under Iowa Code § 96.6-4, a finding of fact or law, judgment, conclusion, or final order made in an unemployment insurance proceeding is binding only on the parties in this proceeding and is not binding in any other agency or judicial proceeding. This provision makes clear that unemployment findings and conclusions are only binding on unemployment issues, and have no effect otherwise.

DECISION:

The June 22, 2021, (reference 01) unemployment insurance decision is AFFIRMED. The claimant voluntarily quit the employment with good cause attributable to the employer. Benefits are allowed, provided he is otherwise eligible. He is not overpaid benefits. The employer's account cannot be relieved of charges associated with the claim for regular unemployment insurance benefits. The claimant is also eligible for FPUC, provided he is otherwise eligible.



Jennifer L. Beckman
Administrative Law Judge
Unemployment Insurance Appeals Bureau
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax 515-478-3528

August 31, 2021
Decision Dated and Mailed

jlb/mh