

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**ALBERT L CHAN**  
Claimant

**APPEAL NO. 12A-UI-08496-S2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**THE UNIVERSITY OF IOWA**  
Employer

**OC: 06/10/12**  
**Claimant: Respondent (4/R)**

Section 96.5-1 - Voluntary Quit  
871 IAC 24.1(113)a – Separations From Employment  
Section 96.5-1 – Voluntary Leaving - Layoff  
Section 96.3-7 – Overpayment

**STATEMENT OF THE CASE:**

The University of Iowa (employer) appealed a representative's July 12, 2012 decision (reference 01) that concluded Albert Chan (claimant) was discharged and there was no evidence of willful or deliberate misconduct. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for August 8, 2012. The claimant did not provide a telephone number for the hearing and, therefore, did not participate. The employer participated by Mary Eggenburg, Benefits Specialist, and Rita Beers, Human Resources Coordinator for Psychiatry.

**ISSUE:**

The issue is whether the claimant was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on March 4, 2011, as a part-time research assistant. The employer told the claimant that funding for his position would end on June 30, 2012. The claimant stopped working on May 31, 2012, to look for other work. Continued work was available had the claimant not resigned.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow the administrative law judge concludes the claimant is qualified to receive unemployment insurance benefits after June 30, 2012.

Iowa Code section 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.

871 IAC 24.25(29) provides:

(29) The claimant left in anticipation of a layoff in the near future; however, work was still available at the time claimant left the employment.

871 IAC 24.26(13) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(13) A claimant who, when told of a scheduled future layoff, leaves employment before the layoff date shall be deemed to be not available for work until the future separation date designated by the employer. After the employer-designated date, the separation shall be considered a layoff.

By the time claimant had quit, employer had already made the decision to layoff claimant due to a lack of funding. Since the layoff was scheduled to begin on or about June 30, 2012, claimant would be entitled to benefits from that date forward. Because he left in advance of the announced layoff, benefits are denied through the week ending June 30, 2012.

Iowa Code section 96.3-7, as amended in 2008, 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.

b. (1) If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5. However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment. The employer shall not be charged with the benefits.

(2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the department to represent any employers in unemployment insurance matters. This subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

The claimant has received benefits since filing the claim herein. Pursuant to this decision, those benefits may now constitute an overpayment. The issue of the overpayment is remanded for determination.

**DECISION:**

The representative's July 12, 2012 decision (reference 01) is modified in favor of the appellant. The claimant is qualified to receive unemployment insurance benefits from June 30, 2012, forward, provided he is otherwise eligible. The issue of the overpayment is remanded for determination.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/pjs