

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JAMES BUFFORD
Claimant

CASEY'S MARKETING COMPANY
Employer

APPEAL NO. 19A-UI-07767-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 08/25/19
Claimant: Respondent (1)

Iowa Code § 96.5-1 – Voluntary Quit
Iowa Admin. Code r. 871-24.27 – Voluntary Quitting – Part-time Employment
Iowa Code § 96.3-7 – Recovery of Overpayment of Benefits
871 IA Admin. Code 24(10) – Employer Participation in Fact Finding

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated September 23, 2019, reference 02, which held claimant eligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on October 24, 2019. Claimant participated personally. Employer participated by Jerri Karr.

ISSUES:

Whether claimant quit part time employment with good cause attributable to employer?

Has the claimant requalified or is he otherwise monetarily eligible for benefits?

Whether claimant was overpaid benefits?

If claimant was overpaid benefits, should claimant repay benefits or should employer be charged due to employer's participation or lack thereof in fact finding?

Is the employer liable for benefit charges?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on June 28, 2019. Claimant voluntarily quit on that date after he was upset with respect given by patrons.

The administrative record shows that the claimant has not requalified for benefits since this separation but reflects that he appears to be otherwise monetarily eligible for benefits even after this part-time employer's wages are excluded from the base period.

Claimant has received unemployment benefits in this matter.

Employer did not substantially participate in fact finding in this matter.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment without good cause attributable to the employer, and has not requalified but appears to be otherwise monetarily eligible.

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.

Iowa Code section 96.5(1)g 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. But the individual shall not be disqualified if the department finds that:

g. The individual left work voluntarily without good cause attributable to the employer under circumstances which did or would disqualify the individual for benefits, except as provided in paragraph "a" of this subsection but, subsequent to the leaving, the individual worked in and was paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

Iowa Admin. Code r. 871-24.27 provides:

Voluntary quit of part-time employment and requalification. An individual who voluntarily quits without good cause part-time employment and has not requalified for benefits following the voluntary quit of part-time employment, yet is otherwise monetarily eligible for benefits based on wages paid by the regular or other base period employers, shall not be disqualified for voluntarily quitting the part-time employment. The individual and the part-time employer which was voluntarily quit shall be notified on Form 655323, Unemployment Insurance Decision, that benefit payments shall not be made which are based on the wages paid by the part-time employer and benefit charges shall not be assessed against the part-time employer's account; however, once the individual has met the requalification requirements following the voluntary quit without good cause of the part-time employer, the wages paid in the part-time employment shall be available for benefit payment purposes. For benefit charging purposes and as determined by the applicable requalification requirements, the wages paid by the part-time employer shall be transferred to the balancing account.

This rule is intended to implement Iowa Code section 96.5(1)g.

Inasmuch as the claimant voluntarily quit and did not establish that this quit was attributable to employer, the separation is disqualifying. However, the claimant has not requalified for benefits

since the separation but appears to be otherwise monetarily eligible according to base period wages. Benefits are allowed, provided he is otherwise eligible.

The overpayment issue is moot.

The issue of employer participation is moot.

DECISION:

The September 23, 2019, (reference 02), unemployment insurance decision is affirmed. The claimant voluntarily left the employment without good cause attributable to the employer and has not requalified for benefits but appears to be otherwise monetarily eligible. Benefits are allowed, provided he is otherwise eligible. The account of this employer shall not be charged.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed

bab/scn