

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**THOMAS A MONSON**  
Claimant

**APPEAL 21A-UI-05585-JC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MATT CONSTRUCTION INC**  
Employer

**OC: 11/29/20**  
**Claimant: Respondent (2R)**

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Iowa Code § 96.5(1) – Voluntary Quitting  
Iowa Code § 96.5(2)a – Discharge for Misconduct  
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment  
Iowa Admin. Code r. 871-24.10 – Employer/Representative Participation Fact-finding Interview

**STATEMENT OF THE CASE:**

The employer/appellant, Matt Construction Inc., filed an appeal from the February 9, 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 April 27, 2021. The claimant did not respond to the notice of hearing to furnish a phone number with the Appeals Bureau and did not participate in the hearing. The employer participated through Julie Schick.

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?  
Was the claimant discharged for disqualifying job-related misconduct?  
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?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed full-time as a construction laborer and was separated from employment on December 14, 2019, when he quit the employment. Continuing work was available. Employer stated claimant simply discontinued working and quit reporting to employer. Employer was aware claimant may have had some personal health and family issues going on at the time of separation.

Claimant's address of record is located in Minnesota. He has not earned additional Iowa wages since this separation. Therefore, it is unclear from the administrative records whether he was requalified for benefits since his December 2019 separation.

The administrative record reflects that claimant has received unemployment benefits, Pandemic Unemployment Emergency Compensation (PEUC) benefits,, and Federal Pandemic Unemployment Compensation (FPUC) benefits since separation from employment. Employer did participate in the fact finding. Employer did not receive a notice of phone fact-finding interview but did receive an emailed fact-finding questionnaire and replied via email on January 29, 2021.

## **REASONING AND CONCLUSIONS OF LAW:**

**For the reasons that follow, the administrative law judge concludes the claimant was not discharged. The claimant voluntarily quit the employment without good cause attributable to the employer. Benefits are denied.**

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.*

The undisputed evidence is claimant was not discharged. Claimant quit the employment when he stopped reporting to work. While claimant may have had personally compelling reasons for quitting, he has not established he quit the job for good cause attributable to the employer according to Iowa law. Benefits are denied.

The issue of whether claimant has requalified for benefits since this separation (through out of state wages) is remanded to the Benefits Bureau for an initial investigation.

**The next issue is whether claimant was overpaid benefits and should have to repay those benefits.**

In this case, claimant received regular unemployment insurance benefits, PEUC benefits, and FPUC benefits after his separation from employment. While the issue regarding overpayment of regular was on the hearing notice, the issues regarding entitlement to and overpayment of FPUC and PEUC benefits were not. Therefore, the issues regarding overpayment of benefits will be remanded to the Benefits Bureau of Iowa Workforce Development for a calculation.

Claimant should be required to repay regular unemployment insurance benefits and employer should not be charged for unemployment insurance benefits, as employer did participate in the fact finding interview. See Iowa Code § 96.3(7)a-b; Iowa Admin. Code r. 871- 24.10.

**DECISION:**

The February 9, 2021, (reference 01) unemployment insurance decision is reversed. The claimant was not discharged. The claimant voluntarily quit the employment without good cause attributable to the employer. Regular unemployment insurance benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The claimant has been overpaid unemployment insurance benefits and the issue of the amount of the overpayment will be remanded to the Benefits Bureau of Iowa Workforce Development for calculation. The claimant may be required to repay regular unemployment insurance benefits and employer will not be charged for any benefits because employer did participate in the fact finding interview.

**REMAND:**

The issue of claimant's overpayment of regular unemployment insurance benefits, PEUC benefits, and FPUC benefits is remanded to the Benefits Bureau of Iowa Workforce Development for a calculation and decision. Claimant may be required to repay the overpayment of regular unemployment insurance benefits and employer will not be charged.

The issue of whether claimant has requalified for benefits since this separation (through out of state wages) is also remanded to the Benefits Bureau for an initial investigation.



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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

April 30, 2021  
Decision Dated and Mailed

jlb/scn

**NOTE TO CLAIMANT:**

- This decision determines you are not eligible for regular unemployment insurance benefits. If 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.
- If you do not qualify for regular unemployment insurance benefits due to disqualifying separations and are currently unemployed for reasons related to COVID-19, you may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** More information about how to apply for PUA is available online at:  
[www.iowaworkforcedevelopment.gov/pua-information](http://www.iowaworkforcedevelopment.gov/pua-information)