

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ROBERT H WAYNE
Claimant

APPEAL 21A-UI-13979-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

FAREWAY STORES INC
Employer

OC: 04/18/21
Claimant: Respondent (2)

Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.5(1) – Voluntary Quit
Iowa Admin. Code r. 871-23.43(9)a, b – Combined Wage Claim

STATEMENT OF THE CASE:

Fareway Stores Inc., the employer/appellant filed an appeal from the June 10, 2021 (reference 01) unemployment insurance decision that found the employer cannot be relieved of charges based on benefits paid by another state. The parties were properly notified of the hearing. A telephone hearing was held on August 13, 2021. The employer participated through Stephanie Rohrer, human resources generalist, and Matthew Gore, assistant grocery manager. Mr. Wayne did not register for the hearing and did not participate. Employer's Exhibit 1 was admitted as evidence. The administrative law judge took official notice of the administrative record.

ISSUE:

Can this Iowa employer be relieved of benefit charges on Mr. Wayne's combined wage claim?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Wayne began working for the employer on June 4, 2019. He worked as a part-time grocery clerk. His employment ended on June 20, 2020 when he quit to accept a different job in Minnesota.

After Mr. Wayne quit, he filed a combined wage claim in Minnesota, but earned wages from this Iowa employer.

REASONING AND CONCLUSIONS OF LAW:

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

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. But the individual shall not be disqualified if the department finds that:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

A voluntary quitting means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer and requires an intention to terminate the employment. *Wills v. Emp't Appeal Bd.*, 447 N.W. 2d 137, 138 (Iowa 1989). A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992). The 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. 871-23.43(5) provides:

(5) Sole purpose. The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment. No charge shall accrue to the account of the former voluntarily quit employer.

In this case, Mr. Wayne left employment with this employer to accept a different job. The evidence establishes that Mr. Wayne quit for the sole purpose of accepting other employment.

Iowa Admin. Code r. 871-23.43(9)(a) and (b) provide:

Combined wage claim transfer of wages.

a. Iowa employers whose wage credits are transferred from Iowa to an out-of-state paying state under the interstate reciprocal benefit plan as provided in Iowa Code section 96.20 will be liable for charges for benefits paid by the out-of-state paying state. No reimbursement so payable shall be charged against a contributory employer's account for the purpose of Iowa Code section 96.7, unless wages so transferred are sufficient to establish a valid Iowa claim, and such charges shall not exceed the amount that would have been charged on the basis of a valid Iowa claim. However, an employer who is required by law or by election to reimburse the trust fund will be liable for charges against the employer's account for benefits paid by another state as required in Iowa Code section 96.8(5), regardless of whether the Iowa wages so transferred are sufficient or insufficient to establish a valid Iowa claim. Benefit payments shall be made in accordance with the claimant's eligibility under the paying state's law. Charges shall be assessed to the employer which are based on benefit payments made by the paying state.

b. The Iowa employer whose wage credits have been transferred and who has potential liability will be notified that the wages have been transferred, the state to which they have been transferred, and the mailing address to which a protest of potential charges may be mailed. This protest must be postmarked or received by the department within ten days of the date on the notice to be considered as a timely protest of charges. If the protest from either the reimbursable or contributory employer justifies relief of charges, charges shall go to the balancing account.

The employer shall be relieved of charges on this combined wage claim since the evidence establishes that Mr. Wayne quit for the sole purpose of accepting other employment and the employer's account would have been relieved of charges based upon this fact scenario on an Iowa claim.

Mr. Wayne's qualification and eligibility shall be determined by the State of Minnesota where he filed his claim.

DECISION:

The June 10, 2021 (reference 01) unemployment insurance decision is reversed. The employer's account is relieved of charges based on benefits paid by another state. Mr. Wayne's qualification and eligibility shall be determined by the State of Minnesota where he filed his claim.



Daniel Zeno
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August 18, 2021
Decision Dated and Mailed

dz/scn