

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

VENIS KOLUBDZIC
Claimant

COPART OF CONNECTICUT INC
Employer

APPEAL 20R-UI-12360-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 10/06/19
Claimant: Appellant (1R)**

Iowa Code § 96.5-2-a – Discharge for Misconduct
Iowa Code § 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Venis Kolubdzic (claimant) appealed a representative's July 17, 2020, decision (reference 07) that concluded ineligibility to receive unemployment insurance benefits due to voluntarily quitting with the Copart of Connecticut (employer). Administrative Law Judge Dawn Boucher issued a decision on September 9, 2020, affirming the representative's decision. The Employment Appeal Board issued a decision of remand on October 8, 2020.

After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for December 8, 2020. The claimant participated personally. The employer was represented by John Soete, Hearings Representative, and participated by Jackie Wallin, General Manager. The administrative law judge took official notice of the administrative file.

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 January 2, 2020, as a full-time dispatcher. On January 21, 2020, the general manager issued the claimant a verbal warning for anger management issues. The claimant had outbursts directed at a company driver and a sub-hauler in January 2020. The employer notified the claimant that further infractions could result in written warnings.

On February 24, 2020, the employer issued the claimant a written warning for becoming belligerent with a supervisor. The employer notified the claimant that further infractions would result in the claimant's separation from employment.

On March 30, 2020, the general manager overheard the claimant developing an angry tone on the telephone with one of the company drivers. Both the general manager and the claimant

knew there were few routes for the company driver and the driver was upset about the lack of work. When the call ended, the general manager instructed the claimant to bring up the computer screen/board to see if they could find the driver a route. The claimant did not want to look. He told the general manager to fix the issue with the company driver.

Knowing the claimant had been placed on a written warning and hoping to avoid issues, the general manager asked the claimant if he wanted to go home. The general manager hoped the claimant could take some time to calm down and return the following day.

The claimant remembers the general manager stating "If you don't f—ing like it, there's the door". The claimant chose to leave and not return. Continued work was available with the employer had the claimant not resigned. The claimant quit work because he did not like his supervisor, the location of his office near the restroom, the dust from the gravel in the parking lot, and the personality of the drivers.

The claimant filed for unemployment insurance benefits with an effective date of October 6, 2019. His weekly benefit amount was determined to be \$481.00. He filed an additional claim for benefits on May 3, 2020. The claimant received benefits from October 6, 2020, to the week ending January 4, 2020, and from May 9, 2020 to the week ending June 27, 2020. This is a total of \$10,021.00 in state unemployment insurance benefits after the separation from employment. He also received \$4,800.00 in Federal Pandemic Unemployment Compensation for the eight-week period ending June 27, 2020.

REASONING AND CONCLUSIONS OF LAW:

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 Admin. Code r. 871-24.25(21) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(21) The claimant left because of dissatisfaction with the work environment.

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). The claimant's intention to voluntarily leave work was evidenced by his actions. When employees quit work because of dissatisfaction with the work environment, their leaving is without good cause attributable to the employer. The

claimant left work because he did not like his work environment. He did not like his supervisor, the location of his desk, the dust in the office and the drivers. His leaving was without good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

The unemployment insurance law requires benefits be recovered from a claimant who receives benefits and is later denied benefits even if the claimant acted in good faith and was not at fault. However, a claimant will not have to repay an overpayment when an initial decision to award benefits on an employment separation issue is reversed on appeal if two conditions are met: (1) the claimant did not receive the benefits due to fraud or willful misrepresentation, and (2) the employer failed to participate in the initial proceeding that awarded benefits. In addition, if a claimant is not required to repay an overpayment because the employer failed to participate in the initial proceeding, the employer's account will be charged for the overpaid benefits. Iowa Code section 96.3(7)a, b.

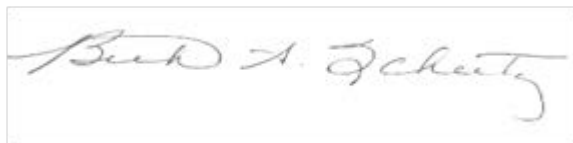
The issue of whether claimant has been overpaid unemployment insurance benefits and Federal Pandemic Unemployment Compensation is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and decision.

DECISION:

The representative's July 17, 2020 decision (reference 07) is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount provided the claimant is otherwise eligible.

The issue of whether claimant has been overpaid unemployment insurance benefits and Federal Pandemic Unemployment Compensation is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and decision.

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. Individuals who do not qualify for regular unemployment insurance benefits due to disqualifying separations, but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.



Beth A. Scheetz
Administrative Law Judge

December 15, 2020
Decision Dated and Mailed

bas/scn