

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JEREMY BUCHANAN**  
Claimant

**APPEAL NO. 13A-UI-08799-BT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**EATON CORPORATION**  
Employer

**OC: 06/23/13**  
**Claimant: Respondent (2/R)**

Iowa Code § 96.5-1 - Voluntary Quit  
Iowa Code § 96.3-7 - Overpayment

**STATEMENT OF THE CASE:**

Eaton Corporation (employer) appealed an unemployment insurance decision dated July 18, 2013, reference 01, which held that Jeremy Buchanan (claimant) was eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 4, 2013. The claimant did not comply with the hearing notice instructions and did not call in to provide a telephone number at which he could be contacted, and therefore, did not participate. The employer participated through Dana Dempsey, Human Resources Manager and Cathy Cullinan, Human Resources Generalist. Employer's Exhibit One was admitted into evidence.

**ISSUE:**

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits.

**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 employed as a full-time machine operator from August 2, 2011 through June 24, 2013 when he effectively quit. He last worked the night shift on June 13, 2013 and when he returned to work the following night, he reported to his supervisor that he had struck his hand on the lower edge of a machine control panel the night before. His supervisor took him to the emergency room where he was diagnosed with a hairline fracture in his right hand. The claimant was advised to wear a splint and only use his left hand for three weeks. The employer could accommodate the work restrictions so the claimant was told to return to work on Sunday, June 16, 2013.

The claimant failed to return to work on June 16, 2013 and notified the employer that he could not work due to pain medication and because he did not think he could work with one hand. The employer assured him his work restrictions would be accommodated, but later that day the employer received an updated doctor's note taking him off work until re-evaluation by his doctor on June 21, 2013. The claimant gave his two-week notice to the employer on June 21, 2013.

stating that he found other employment. He was released to return to his shift at 11:00 p.m. on June 24, 2013. The claimant called his supervisor at 10:19 p.m. on June 24, 2013 and said he could not return to work because he did not have a return to work slip from his doctor.

The human resources manager called the claimant on June 25, 2013 to ask why he did not return to work. The claimant said he would be back to work that night and was advised he would be considered a voluntary quit as of June 24, 2013 if he failed to report to work. The claimant did not return to work.

The claimant filed a claim for unemployment insurance benefits effective June 23, 2013 and has received benefits after the separation from employment.

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

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits. He is not qualified to receive unemployment insurance benefits if he voluntarily quit without good cause attributable to the employer. Iowa Code § 96.5-1.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980) and *Peck v. Employment Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant demonstrated his intent to quit and acted to carry it out by failing to return to work on June 24, 2013.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. He failed to participate in the hearing and has not satisfied that burden. 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 § 96.3-7-a, -b.

The matter of deciding the amount of the overpayment and whether the amount overpaid should be recovered from the claimant and charged to the employer under Iowa Code § 96.3-7-b is remanded to the Agency.

**DECISION:**

The unemployment insurance decision dated July 18, 2013, reference 01, is reversed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The matter is remanded to the Claims Section for investigation and determination of the overpayment issue.

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Susan D. Ackerman  
Administrative Law Judge

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Decision Dated and Mailed

sda/pjs