

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CRAIG C FRIIS
Claimant

RUAN TRANSPORT CORP
Employer

APPEAL 16A-UI-09803-CL-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 08/07/16
Claimant: Respondent (4)

Iowa Code § 96.5(1) – Voluntary Quitting
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 filed an appeal from the September 1, 2016, (reference 01) unemployment insurance decision that allowed benefits. The parties were properly notified about the hearing. A telephone hearing was held on September 26, 2016. Claimant participated. Employer participated through terminal manager Corey Vesely. Marty Meyer was present but did not participate. Employer's Exhibit 1 was received.

ISSUES:

Did claimant voluntarily quit the employment with good cause attributable to employer?
Has the claimant been overpaid unemployment insurance benefits, and if so, can the repayment of those benefits to the agency be waived?
Can 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: Claimant began working for employer in July 2015. Claimant last worked as a part-time driver. Claimant was separated from employment on August 9, 2016, when he resigned.

Claimant also had a full-time job for another employer, but work was slowing down. On August 8, 2016, claimant asked employer if he could start working on a full-time basis and requested a specific schedule. Employer did not have the specific schedule claimant requested available. On August 9, 2016, claimant gave employer a two-week resignation notice. The same day, terminal manager Corey Vesely learned claimant had requested to transfer to another terminal. The transfer request was approved, but claimant informed employer he could not actually take the transfer due to the long drive it would require. Claimant tried to return to work at the original location, but he had already been processed as a voluntary quit.

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 §96.5(1) provides:

An individual shall be disqualified for benefits:

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. 871-24.27 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 the Form 65-5323 or 60-0186, 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.

See also, McCarthy v. Iowa Emp't Sec. Comm'n, 76 N.W.2d. 201 (Iowa 1956) wherein the court held that persons who become unemployed by a layoff from their full-time employer cannot be disqualified for a previous voluntary quit from a part-time employer.

Inasmuch as claimant resigned because he disliked the work hours and/or the commute, the separation is disqualifying. However, the claimant appears to be otherwise monetarily eligible according to base period wages. Thus, he may be eligible for benefits based upon those other wages.

DECISION:

The September 1, 2016, (reference 01), unemployment insurance decision is modified in favor of the appellant. 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 part-time employer (031530) shall not be charged.

Christine A. Louis
Administrative Law Judge
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Decision Dated and Mailed

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