

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**CLAIDE NEAL JR**  
Claimant

**TACO JOHNS OF IOWA INC**  
Employer

**APPEAL 20A-UI-12890-SC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 06/21/20**  
**Claimant: Respondent (2)**

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  
Public Law 116-136 § 2104(b) – Federal Pandemic Unemployment Compensation

**STATEMENT OF THE CASE:**

On October 16, 2020, Taco Johns of Iowa, Inc. (employer) filed an appeal from the October 6, 2020, reference 03, unemployment insurance decision that allowed benefits based upon the determination Claide Neal, Jr. (claimant) was not discharged for willful or deliberate misconduct. The parties were properly notified about the hearing held by telephone on December 15, 2020. The claimant did not respond to the hearing notice and did not participate. The employer participated through Jennifer Cromin, General Restaurant Manager. No exhibits were offered into the record. The administrative law judge took official notice of the administrative record.

**ISSUES:**

Did the claimant voluntarily quit employment with good cause attributable to the employer?  
Has the claimant been overpaid unemployment insurance benefits and, if so, can the repayment of those benefits to the agency be waived and charged to the employer's account?  
Has the claimant been overpaid Federal Pandemic Unemployment Compensation (FPUC)?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed part-time as a Crew Member beginning on January 28, 2020, and his last day worked was February 8. The employer has a policy that any employee who fails to report for three consecutive shifts is considered to have abandoned their job.

When the claimant was hired, he did not produce an identification from List B for the I-9 verification. Jennifer Cromin, General Restaurant Manager, reminded during the shifts he worked that she needed the documentation. She told him during his shift on February 8, that he needed to bring it the next shift or he would not be able to work until it was furnished. The claimant was scheduled to work February 10, February 11, and February 12. He did not notify the employer he was going to miss work and did not contact the employer after his shift on February 8.

The administrative record reflects that claimant has not received unemployment benefits filing a claim with an effective date of June 21, 2020. An HR representative participated in the fact-finding interview on behalf of the employer.

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

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was 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.

Iowa Admin. Code r. 871-24.25 provides, in relevant part:

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:

(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

An employer is entitled to expect its employees to report to work as scheduled or to be notified when and why the employee is unable to report to work. As the claimant failed to report for work or notify the employer for three consecutive workdays in violation of the employer policy, the claimant is considered to have voluntarily left employment without good cause attributable to the employer. Benefits are denied.

As the claimant has not received any benefits to this point, the issues of overpayment are moot and the employer's account will not be charged.

### **DECISION:**

The October 6, 2020, reference 03, unemployment insurance decision is reversed. The claimant voluntarily left the employment without good cause attributable to the employer. Benefits are withheld until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

As the claimant has not received any benefits to this point, the issues of overpayment are moot and the employer's account will not be charged.



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Stephanie R. Callahan  
Administrative Law Judge

December 30, 2020  
Decision Dated and Mailed

src/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. Individuals who do not qualify for regular unemployment insurance benefits, but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to self-certify for PUA to determine your eligibility under the program.** Additional information on how to self-certify for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>. If this decision becomes final or if you are not eligible for PUA, you may have an overpayment of benefits.