

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MICHAEL D SAMS
Claimant

QG PRINTING CORP
Employer

APPEAL 17A-UI-06802-SC-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 06/11/17
Claimant: Respondent (1)

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:

QG Printing Corp. (employer) filed an appeal from the June 27, 2017, reference 03, unemployment insurance decision that allowed benefits based upon the determination Michael D. Sams (claimant), voluntarily quit employment due to a change in his contract of hire which is a good cause reason attributable to the employer. The parties were properly notified about the hearing. A telephone hearing was held on July 21, 2017. The claimant participated. The employer participated through Human Resource Generalist Sarah Betteridge. Employer's Exhibit 1 was received. Official notice was taken of the administrative record, specifically the fact-finding documents and the claimant's wage record.

ISSUES:

Did the claimant voluntarily quit the 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?
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: The claimant was employed full-time beginning on October 9, 2010. The claimant was initially hired by QG Printing Corp. (account number 371155). Beginning January 1, 2017, the employer changed its name to QG Printing II Corp. and its account number to 561973. The employer witness had no explanation as to why there was a change as business continued as usual. The claimant worked his way up to a Roll Tender Apprentice position which was the position he held until mid-June 2017. He was separated from employment on June 21, 2017, when he quit.

As a Roll Tender Apprentice, the claimant earned \$18.39 an hour. At the beginning of June 2017, the employer eliminated all positions for an entire crew, which meant displaced employees needed to be moved into other positions. In mid-June 2017, another employee took

the claimant's position and the claimant was moved into a Press Room Packer position earning \$13.70 an hour. The claimant quit due to the change in his pay.

The administrative record reflects that the claimant has received unemployment benefits in the amount of \$2,020.00, since filing a claim with an effective date of June 11, 2017, for the six weeks ending July 22, 2017. The administrative record also establishes that the employer did not participate in the fact-finding interview, make a first-hand witness available for rebuttal, or provide written documentation that, without rebuttal, would have resulted in disqualification.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily quit his employment with good cause attributable to the employer. Benefits are allowed, provided he is otherwise eligible.

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. 871-24.26(1) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(1) A change in the contract of hire. An employer's willful breach of contract of hire shall not be a disqualifiable issue. This would include any change that would jeopardize the worker's safety, health or morals. The change of contract of hire must be substantial in nature and could involve changes in working hours, shifts, remuneration, location of employment, drastic modification in type of work, etc. Minor changes in a worker's routine on the job would not constitute a change of contract of hire.

In general, a substantial pay reduction of 25 to 35 percent or a similar reduction of working hours creates good cause attributable to the employer for a resignation. *Dehmel v. Emp't Appeal Bd.*, 433 N.W.2d 700 (Iowa 1988). A notice of an intent to quit had been required by *Cobb v. Emp't Appeal Bd.*, 506 N.W.2d 445, 447-78 (Iowa 1993), *Suluki v. Emp't Appeal Bd.*, 503 N.W.2d 402, 405 (Iowa 1993), and *Swanson v. Emp't Appeal Bd.*, 554 N.W.2d 294, 296 (Iowa Ct. App. 1996). Those cases required an employee to give an employer notice of intent to quit, thus giving the employer an opportunity to cure working conditions. However, in 1995, the Iowa Administrative Code was amended to include an intent-to-quit requirement. The requirement was only added to rule 871-24.26(6)(b), the provision addressing work-related health problems. No intent-to-quit requirement was added to rule 871-24.26(1), the change in contract of hire provision.

The parties disagree as to what the claimant was being paid at the time of his change in pay. The claimant contends he earned \$20.82 an hour and the employer contends the claimant earned \$18.39 an hour. For purposes of this decision, it will be accepted that the claimant last

earned \$18.39 an hour. Even at the lower rate of pay, the pay change was a 25% reduction in pay, which is considered substantial. As the employer testified it was a business decision, and not misconduct, which led to the reduction in pay, the separation was with good cause attributable to the employer. Benefits are allowed, provided he is otherwise eligible.

There is a provision that allows for a claimant to requalify for benefits, if he or she separated from employment without good cause attributable to the employer and earned ten times his or her weekly benefit amount. Iowa Code section 96.5(1)g. In this case, even though the employer's name and account number changed, the employer has not established that the claimant separated from his employment at the time of the change and his separation in June was with good cause attributable to the employer. Therefore, QG Printing Corp. can still be held liable for the claimant's benefits; even though he earned wages under another account number.

As benefits are allowed, the issue of overpayment is moot and the charges to the employer's account cannot be waived.

DECISION:

The June 27, 2017, reference 03, unemployment insurance decision is affirmed. The claimant voluntarily quit the employment with good cause attributable to the employer. Benefits are allowed, provided he is otherwise eligible. As benefits are allowed, the issue of overpayment is moot and the charges to the employer's account cannot be waived.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/scn