

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SEASON FORD
Claimant

THRIVE TOGETHER LLC
Employer

APPEAL 21A-UI-23289-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 08/22/21
Claimant: Respondent (2)**

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment of Benefits
Iowa Admin. Code r. 871-24.10 – Employer/Representative Participation Fact-finding Interview

STATEMENT OF THE CASE:

The employer/appellant filed an appeal from the October 14, 2021 (reference 02) unemployment insurance decision that allowed unemployment insurance benefits to the claimant based upon a separation from work. The parties were properly notified of the hearing. A telephone hearing was held on December 10, 2021. The claimant did not participate. The employer participated through witnesses John O’Fallon and Necole Loftis. The administrative law judge took administrative notice of the claimant’s unemployment insurance benefits records.

ISSUE:

Did the claimant voluntarily quit without good cause attributable to the employer?
Has the claimant been overpaid any regular unemployment insurance benefits, and if so, can the repayment of those benefits to the agency be waived?
Can any 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 was employed part-time as a server beginning on June 15, 2020. Her last day physically worked on the job was December 22, 2020 when she gave a verbal resignation to Ms. Loftis. The employer had continuing work available to the claimant is she would not have quit.

Claimant’s administrative records indicate that she has not been paid any regular unemployment insurance benefits since filing her claim on August 22, 2021. The employer did participate by telephone in the fact-finding interview and told Iowa Workforce Development that the claimant had voluntarily quit the position.

ONLINE RESOURCES:

UI law and administrative rules:

<https://www.iowaworkforcedevelopment.gov/unemployment-insurance-law-and-administrative-rules>

UI Benefits Handbook:

<https://www.iowaworkforcedevelopment.gov/unemployment-insurance-claimant-handbook>

Employer UI Handbook: <https://www.iowaworkforcedevelopment.gov/employer-handbook>

Report UI fraud: <https://www.iowaworkforcedevelopment.gov/report-fraud>

Employer account access and information: <https://www.myiowaui.org/UITIPTaxWeb/>

National Career Readiness Certificate and Skilled Iowa Initiative: <http://skillediowa.org/>

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

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.

Claimant had an intention to quit and carried out that intention by tendering a verbal resignation. As such, claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973).

Iowa Admin. Code r. 871-24.25(37) 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:

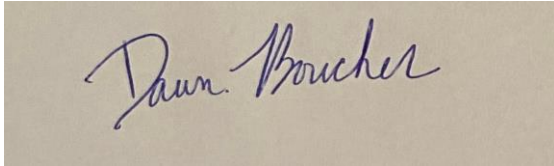
(37) The claimant will be considered to have left employment voluntarily when such claimant gave the employer notice of an intention to resign and the employer accepted such resignation. This rule shall also apply to the claimant who was employed by an educational institution who has declined or refused to accept a new contract or reasonable assurance of work for a successive academic term or year and the offer of work was within the purview of the individual's training and experience.

Claimant voluntarily quit her employment with the employer and tendered her verbal resignation on December 22, 2020. Claimant's voluntary quitting was without good cause attributable to the employer.

Regular unemployment insurance benefits funded by the State of Iowa are denied effective her December 22, 2020 separation date. Because no regular unemployment insurance benefits were paid to the claimant after the separation date of December 22, 2020, the issues of overpayment of benefits and chargeability are moot.

DECISION:

The October 14, 2021 (reference 02) unemployment insurance decision is reversed. Claimant voluntarily quit her employment on December 22, 2020 without good cause attributable to the employer. The separation from employment is disqualifying and benefits are denied until claimant has worked in and been paid wages for insured work equal to ten times the weekly benefit amount after the separation date, and provided they are otherwise eligible.



Dawn Boucher
Administrative Law Judge

December 27, 2021
Decision Dated and Mailed

db/db