

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

KRISTY MITCHELL
Claimant

GLASS FABRICATORS INC
Employer

APPEAL 21A-UI-13794-SN-T
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 03/07/21
Claimant: Respondent (2)

Iowa Code § 96.5(1)a – Voluntary Leaving/Other Employment
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Iowa Admin. Code r. 871-24.10 – Recovery of Benefit Overpayment
PL 116-136, Sec. 2104 – Federal Pandemic Unemployment Compensation

STATEMENT OF THE CASE:

The employer, Glass Fabricators Inc., filed an appeal from the June 8, 2021, (reference 01) unemployment insurance decision that denied benefits based upon her resignation, but it granted benefits from March 7, 2021 to March 20, 2021. The parties were properly notified about the hearing. A telephone hearing was held on August 12, 2021. The claimant participated and testified. The employer participated through Kathleen Jones. Official notice was taken of the agency records. No exhibits were received into the record.

ISSUES:

Was the separation a layoff, discharge for misconduct or voluntary quit without good cause attributable to the employer?

Whether the claimant has been overpaid for benefits? Whether the claimant is excused from repaying those benefits due to the employer's non-participation at fact finding?

Whether the claimant is overpaid Federal Pandemic Unemployment Compensation benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

The claimant worked as a full-time shop laborer for the employer, Glass Fabricators from August 24, 2020, until March 8, 2021, when she quit. Her immediate supervisor was Shop Manager Joe Porter.

On March 8, 2021, the claimant told General Manager Grant Hewines that she was quitting effective immediately for a dump truck driver position. The claimant had this job offer from her subsequent employer, when she informed Mr. Hewines of her resignation.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left employment to accept employment elsewhere. The overpayment issues are moot because the claimant is entitled to benefits.

Iowa Code section 96.5(1)a 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. But the individual shall not be disqualified if the department finds that:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

Iowa Admin. Code r. 871-24.28(5) provides:

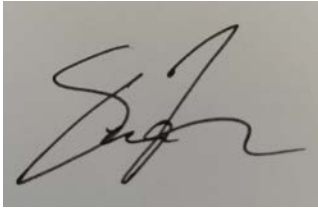
Voluntary quit requalifications and previously adjudicated voluntary quit issues.

(5) The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment. The employment does not have to be covered employment and does not include self-employment.

Even though the separation was without good cause attributable to the employer and would, standing alone, disqualify the claimant from receiving benefits, the claimant did leave in order to accept other employment. Accordingly, benefits are allowed and the account of the employer shall not be charged.

DECISION:

The June 8, 2021, (reference 01), decision is reversed. The claimant voluntarily left employment in order to accept other employment. Benefits are allowed, provided the claimant is otherwise eligible. The account of the employer (account number # 261667) shall not be charged.

A handwritten signature in black ink on a light gray background. The signature is stylized and appears to read 'Sean M. Nelson'.

Sean M. Nelson
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515) 725-9067

September 20, 2021
Decision Dated and Mailed

smn/scn