

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**LOGAN A GEBHART**  
Claimant

**APPEAL 19A-UI-08671-AD-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TM WOODWORKS INC**  
Employer

**OC: 10/06/19  
Claimant: Respondent (2)**

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Iowa Code § 96.5(2)a – Discharge for Misconduct  
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:**

On November 4, 2019, TM Woodworks Inc. (employer) filed a timely appeal from the October 25, 2019 (reference 01) unemployment insurance decision that determined Logan Gebhart (claimant) was eligible to receive unemployment insurance benefits. Specifically, the fact-finder determined claimant quit work on October 4, 2019 because of detrimental working conditions caused by employer.

A telephone hearing was held on November 27, 2019 at 9 a.m. The parties were properly notified of the hearing. Employer participated by owner Tom McNeil. Claimant did not register a phone number at which he could be reached for the hearing and did not participate in the hearing.

Administrative notice was taken of claimant's payment history on the unemployment insurance system.

**ISSUE(S):**

- I. Was the separation a layoff, discharge for misconduct, or voluntary quit without good cause?
- II. Was the claimant overpaid benefits?
- III. Should claimant repay benefits and/or charge employer due to employer participation in fact finding?

**FINDINGS OF FACT:**

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

Claimant worked full-time for employer beginning June 14, 2019. She was training to become a cabinet builder. Her direct supervisor was McNeil. The last day she worked was October 4, 2019.

Employer builds custom cabinets. Employer has a lot of work to complete and the work can be complicated. It takes about a year to become fully trained. McNeil was working with claimant on October 4, 2019 when she said she "couldn't take it," handed in her keys, and quit effective immediately.

Claimant and a coworker, Sue, did not get along well. Sue and the other, more experienced builders would give guidance to claimant. Claimant was not always receptive to guidance. Sue's guidance was in particular often exacting and pointed, which caused friction between Sue and claimant. Claimant did tell McNeil several times that she did not like Sue, but her complaints were usually non-specific. On one occasion, claimant complained about Sue elbowing her. However, McNeil spoke with Sue and determined the contact was accidental, as Sue was trying to help claimant with a cabinet that was in danger of falling during the loading process. McNeil did not witness any swearing, physical violence, or harassment toward claimant.

The unemployment insurance system shows claimant has been paid weekly benefits in the amount of \$133.00 and has a total maximum benefit amount of \$1,320.78. McNeil participated in the fact-finding interview.

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

For the reasons set forth below, the October 25, 2019 (reference 01) unemployment insurance decision that determined claimant was eligible to receive unemployment insurance benefits is REVERSED.

- I. Was the separation a layoff, discharge for misconduct, or voluntary quit without good cause?

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.

Iowa Admin. Code r. 871-24.25(21) 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:

- (21) The claimant left because of dissatisfaction with the work environment.

Iowa Admin. Code r. 871-24.26(4) 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:

- (4) The claimant left due to intolerable or detrimental working conditions.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). The employer has the burden of proving that a claimant's departure from employment was voluntary. *Irving v. Emp't Appeal Bd.*, 883 N.W.2d 179 (Iowa 2016). "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". *Id.* (citing *Cook v. Iowa Dept. of Job Service*, 299 N.W.2d 698, 701 (Iowa 1980)).

"Good cause" for leaving employment must be that which is reasonable to the average person, not to the overly sensitive individual or the claimant in particular. *Uniweld Products v. Industrial Relations Commission*, 277 S.2d 827 (Florida App. 1973). While a notice of intent to quit is not required to obtain unemployment benefits where the claimant quits due to intolerable or detrimental working conditions, the case for good cause is stronger where the employee complains, asks for correction or accommodation, and employer fails to respond. *Hy-Vee Inc. v. EAB*, 710 N.W.2d 1 (Iowa 2005).

Employer has carried its burden of proving claimant's departure from employment was voluntary. However, claimant has not carried her burden of proving the voluntary leaving was for good cause attributable to employer. The evidence before this administrative law judge is that, while there was some job-related friction between claimant and a coworker, a reasonable person would not have found the working conditions to be intolerable or detrimental. Furthermore, claimant did not give notice of her intent to quit prior to doing so. While notice is not required, claimant's failure to give notice and an opportunity for employer to correct the working condition weakens her case in these circumstances. Claimant's quitting is properly characterized as being due to dissatisfaction with the work environment, which is specifically presumed to be without good cause.

Because the administrative law judge finds claimant's quitting was without good cause attributable to employer and thus is ineligible to receive benefits, a determination must be made as to whether claimant was overpaid benefits and, if so, whether she must repay those benefits.

## II. Was the claimant overpaid benefits?

Iowa Code section 96.3(7) provides, in pertinent part:

### 7. Recovery of overpayment of benefits.

a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

b. (1) (a) If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment

compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

(b) However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment.

The unemployment insurance system shows claimant has received total benefits in the amount of \$133.00. Because this administrative law judge now finds claimant is ineligible to receive benefits, she has been overpaid benefits in the amount of \$133.00. The next question is whether claimant is required to repay benefits.

III. Should claimant repay benefits and/or charge employer due to employer participation in fact finding?

Iowa Admin. Code r. 871-24.10 provides:

Employer and employer representative participation in fact-finding interviews.

(1) "Participate," as the term is used for employers in the context of the initial determination to award benefits pursuant to Iowa Code section 96.6, subsection 2, means submitting detailed factual information of the quantity and quality that if unrebutted would be sufficient to result in a decision favorable to the employer. The most effective means to participate is to provide live testimony at the interview from a witness with firsthand knowledge of the events leading to the separation. If no live testimony is provided, the employer must provide the name and telephone number of an employee with firsthand information who may be contacted, if necessary, for rebuttal. A party may also participate by providing detailed written statements or documents that provide detailed factual information of the events leading to separation. At a minimum, the information provided by the employer or the employer's representative must identify the dates and particular circumstances of the incident or incidents, including, in the case of discharge, the act or omissions of the claimant or, in the event of a voluntary separation, the stated reason for the quit. The specific rule or policy must be submitted if the claimant was discharged for violating such rule or policy. In the case of discharge for attendance violations, the information must include the circumstances of all incidents the employer or the employer's representative contends meet the definition of unexcused absences as set forth in 871—subrule 24.32(7). On the other hand, written or oral statements or general conclusions without supporting detailed factual information and information submitted after the fact-finding decision has been issued are not considered participation within the meaning of the statute.

The administrative law judge finds McNeil participated in the fact-finding interview on behalf of employer. Because employer participated in the fact-finding interview and claimant has now been determined to be ineligible, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund.

**DECISION:**

The October 25, 2019 (reference 01) unemployment insurance decision is reversed. The claimant voluntarily quit without good cause attributable to employer. Claimant was overpaid benefits in the amount of \$133.00. The charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund.

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Andrew B. Duffelmeyer  
Administrative Law Judge

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Decision Dated and Mailed

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