

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

COLTON L KURTH
Claimant

GAMESTOP INC
Employer

APPEAL 25A-UI-02970-S2-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/23/25
Claimant: Respondent (2)

Iowa Code § 96.5(1) – Voluntary Quit
Iowa Code § 96.5(2)a – Discharge for Misconduct
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:

The employer filed an appeal from the April 8, 2025, (reference 01) unemployment insurance decision that allowed benefits based upon claimant's voluntary quit. The parties were properly notified about the hearing. A telephone hearing was held on May 5, 2025. Claimant Colton Kurth participated. Employer Gamestop, Inc. participated through district leader Troy Kruse. The administrative law judge took official notice of the administrative record.

ISSUES:

Did claimant voluntarily quit the employment with good cause attributable to employer?
Has the claimant been overpaid unemployment insurance benefits, and if so, can the repayment of those benefits to the agency be waived?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as an assistant store lead from October 2023, until January 7, 2025, when he quit.

Employer provides resources for employees who have concerns with the workplace. Employees can reach out to their supervisor, and if they do not receive the answers or help they are seeking, they can contact the district leader directly. Employer also has a human resources tip line employees can call, or employees can contact a human resources representative. These procedures are set forth in the employee handbook and claimant was made aware of the procedures.

Claimant was frustrated by the amount of work he was expected to perform by himself. He wanted a second employee working with him during his entire shift, and he asked Mr. Arnold for help repeatedly. The response was that he would get some help eventually, but claimant would

only overlap with other employees for a couple of hours at a time. Claimant felt like he could not check in new merchandise, stock merchandise, answer phones, do web orders and deal with customers on his own. Employer's stores are low volume so foot traffic is not strong, and employer believes claimant could have handled the work load sufficiently on his own as other employees did.

On three occasions claimant's supervisor Dylan Arnold asked claimant to come into the store on his day off to discuss sales numbers. After the first time, claimant requested to have the conversations over the phone so he wouldn't have to drive across town to the store, but Mr. Arnold insisted on discussing the numbers in person. Employer's normal procedure for having this kind of discussion would be on the employee's next scheduled work day. Claimant did not bring this matter to human resources or a district leader. The third time this happened, on January 7, 2025, when claimant arrived at the store he turned his store keys into Mr. Arnold and quit his employment effective immediately.

The administrative record reflects that claimant has received unemployment benefits in the amount of \$1,314.00, since filing a claim with an effective date of March 23, 2025, for the six weeks ending May 3, 2025. Employer did not participate in the fact-finding interview. The Iowa Workforce Development (IWD) deputy called the third-party representative's contact information provided for the scheduled interview and was told to use the SIDES information to make a decision. Employer did not provide the contact information of a person with first hand knowledge of the discharge for IWD to contact if needed for rebuttal.

REASONING AND CONCLUSIONS OF LAW:

Quit

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was without good cause attributable to the employer.

Iowa Code section 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.

Iowa Admin. Code r. 871-24.19(1) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. In addition to the reasons established in Iowa Code section 96.5(1), the following are reasons for a claimant leaving employment with good cause attributable to the employer:

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

Iowa Admin. Code r. 871-24.18 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:

(17) Claimant left because of dissatisfaction with the work environment.

(18) Claimant left because of a personality conflict with the supervisor.

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, 829 (Fla. Dist. Ct. App. 1973). A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer Co. of Sioux City*, 289 N.W.2d 608, 612 (Iowa 1980).

Claimant's actions of turning in his keys to his manager and not returning to work are evidence of his intention to sever the employment relationship and an overt act of carrying out his intention. Claimant's frustrations with being called into work for conversations on his day off and feeling as though he had too much work to complete by himself during his shift are understandable. However, they do not rise to the level of intolerable or detrimental working conditions. When claimant's immediate supervisor did not adequately address his concerns, claimant failed to raise any of these issues with upper management or human resources to give them a chance to address his concerns. Instead, it appears claimant left his employment because he was dissatisfied with the workload and the way his supervisor managed. While claimant's leaving may have been based upon good personal reasons, it was not for a good-cause reason attributable to the employer according to Iowa law. Benefits are denied.

Overpayment and Participation

The next issue in this case is whether claimant was overpaid unemployment insurance benefits.

Iowa Code section 96.3(7)a-b, as amended in 2008, provides:

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. The employer shall not be relieved of charges if benefits are paid because the employer or an agent of the employer failed to respond timely or adequately to the department's request for information relating to the payment of benefits. This prohibition against relief of charges shall apply to both contributory and reimbursable employers. If the department determines that an employer's failure to respond timely or adequately was due to insufficient notification from the department, the employer's account shall not be charged for the overpayment.

(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.

(2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the department to represent any employers in unemployment insurance matters. This subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

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(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 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 24.24(7). 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.

(2) "A continuous pattern of nonparticipation in the initial determination to award benefits," pursuant to Iowa Code section 96.6(2), as the term is used for an entity representing employers, means on 25 or more occasions in a calendar quarter the entity files appeals after failing to participate. Appeals filed but withdrawn before the day of the contested case hearing will not be considered in determining if a continuous pattern of nonparticipation exists. The division administrator will notify the employer's representative in writing after each such appeal.

(3) If the division administrator finds that an entity representing employers as defined in Iowa Code section 96.6(2) has engaged in a continuous pattern of nonparticipation, the division administrator will suspend the representative for a period of up to six months on the first occasion, up to one year on the second occasion and up to ten years on any subsequent occasion. Suspension by the division administrator constitutes final agency action and may be appealed pursuant to Iowa Code section 17A.19.

(4) "Fraud or willful misrepresentation by the individual," as the term is used for claimants in the context of the initial determination to award benefits pursuant to Iowa Code section 96.6(2), means providing knowingly false statements or knowingly false denials of material facts for the purpose of obtaining unemployment insurance benefits. Statements or denials may be either oral or written by the claimant. Inadvertent misstatements or mistakes made in good faith are not considered fraud or willful misrepresentation

This rule is intended to implement Iowa Code section 96.3(7)"b."

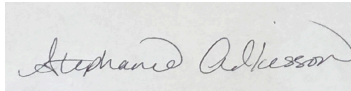
Because claimant's separation was disqualifying, benefits were paid to which they were not entitled. The administrative law judge concludes the claimant has been overpaid UI in the gross amount of \$1,314.00 for the six weeks ending May 3, 2024. The unemployment insurance law provides that benefits must be recovered from a claimant who receives benefits and is later determined to be ineligible for benefits, even though the claimant acted in good faith and was not otherwise at fault. However, the overpayment **will not be recovered** when it is based on a reversal on appeal of an initial determination to award benefits on an issue regarding the claimant's employment separation if: (1) the benefits were not received due to any fraud or willful misrepresentation by the claimant and (2) the employer did not participate in the initial proceeding to award benefits. The employer will not be charged for benefits if it is determined that they did participate in the fact-finding interview. Iowa Code § 96.3(7), Iowa Admin. Code r. 871-24.10.

In this case, the claimant has received benefits but was not eligible for those benefits. However, there is no evidence claimant received benefits due to any fraud or misrepresentation. Additionally, the administrative law judge finds that the employer did not sufficiently participate in the fact-finding interview because it failed to provide IWD with a live witness at the fact-finding interview that had first hand knowledge of the separation reason and it failed to provide the contact information of a witness with first hand knowledge of the separation facts necessary for rebuttal. Given these facts, the employer's account may be charged for benefits paid and the claimant is not required to repay the unemployment insurance benefits he received.

DECISION:

The April 8, 2025, (reference 01) unemployment insurance decision is REVERSED. Claimant voluntarily quit employment without good cause attributable to the employer. Unemployment insurance benefits funded by the State of Iowa are denied until the claimant has worked in and been paid wages for insured work equal to ten times their weekly benefit amount after the January 7, 2025 separation date, and provided they are otherwise eligible.

The claimant has received unemployment insurance benefits in the amount of \$1,314.00 and is not obligated to repay the agency those benefits. The employer did not participate in the fact-finding interview and its account shall be charged.



Stephanie Adkisson
Administrative Law Judge

May 7, 2025
Decision Dated and Mailed

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APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Iowa Employment Appeal Board
6200 Park Avenue Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Iowa Employment Appeal Board
6200 Park Avenue Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.