

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

JEREMY R MILLER
406 UNION ST
MARSHALLTOWN IA 50158

WESTSTAFF USA INC
c/o TALX UC EXPRESS
PO BOX 283
ST LOUIS MO 63166-0283

Appeal Number: 05A-UI-03850-CT
OC: 02/27/05 R: 02
Claimant: Respondent (2)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

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.

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.

YOU MAY REPRESENT yourself in this appeal or you may 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. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5(1) – Voluntary Quit
Section 96.3(7) – Recovery of Overpayments

STATEMENT OF THE CASE:

Weststaff USA, Inc. filed an appeal from a representative's decision dated March 28, 2005, reference 05, which held that no disqualification would be imposed regarding Jeremy Miller's separation from employment. After due notice was issued, a hearing was held by telephone on May 4, 2005. The employer participated by Vicky Matthias, Branch Supervisor. Mr. Miller responded to the notice of hearing but was not available at the number provided at the scheduled time of the hearing.

FINDINGS OF FACT:

Having heard the testimony of the witness and having reviewed all the evidence in the record, the administrative law judge finds: Weststaff USA, Inc. is a temporary placement firm through which Mr. Miller worked from April 13 until August 17, 2004. His last assignment was with Metokote Corporation where he worked full-time beginning June 25, 2004. It was a long-term assignment and could have resulted in permanent employment. Mr. Miller was presumed to have quit when he stopped reporting for available work without notice.

The employer was not aware of any issues Mr. Miller had regarding his pay. The employer's records indicate Mr. Miller received paychecks weekly. Their records do not reflect any checks issued to him outside of the normal pay dates.

Mr. Miller has received a total of \$540.00 in job insurance benefits since filing his claim effective February 27, 2005.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Miller was separated from employment for any disqualifying reason. He was hired for placement in temporary work assignments. An individual so employed must complete his last assignment in order to avoid the voluntary quit provisions of the law. See 871 IAC 24.26(19). Mr. Miller did not complete his assignment with Metokote Corporation as he simply stopped reporting for work without notice. Because the separation was at his initiative, it is considered a voluntary quit. An individual who voluntarily quits employment is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1).

During the fact-finding interview, Mr. Miller alleged that he was having difficulty receiving his pay. He did not participate in the hearing to provide sworn testimony regarding any discrepancies or problems with his pay. The employer's records do not substantiate his claims. The evidence does not indicate any other reason for the separation. For the above reasons, it is concluded that Mr. Miller did not have good cause attributable to the employer for quitting. Accordingly, benefits are denied.

Mr. Miller has received benefits since filing his claim. Based on the decision herein, the benefits received now constitute an overpayment and must be repaid. Iowa Code section 96.3(7).

DECISION:

The representative's decision dated March 28, 2005, reference 05, is hereby reversed. Mr. Miller voluntarily quit his employment for no good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he satisfies all other conditions of eligibility. Mr. Miller has been overpaid \$540.00 in job insurance benefits.

cfc/tjc