

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**TROY A HAWLEY**  
Claimant

**APPEAL NO: 13A-UI-01014-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**LOGISTIC SERVICES INC**  
Employer

**OC: 12/23/12**  
**Claimant: Respondent (2/R)**

Iowa Code § 96.5(1) – Voluntary Quit

**PROCEDURAL STATEMENT OF THE CASE:**

The employer appealed a representative's January 18, 2013 determination (reference 01) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant voluntarily quit his employment for reasons that qualify him to receive benefits. The claimant participated in the hearing with Christine Hawley. Mel Kinkade, the general manager, and Dr. Lisa Arndt, a subpoenaed witness, appeared on the employer's behalf. During the hearing, Employer Exhibit One was offered and admitted as evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

**ISSUE:**

Did the claimant voluntarily quit his employment for reasons that qualify him to receive benefits?

**FINDINGS OF FACT:**

The claimant started working for the employer in July 2007. He worked full time in the warehouse. During his employment, the claimant had a supervisor who called the claimant a broke dick back. The claimant did not report the supervisor's comments to anyone in management. The harassment started about two years ago. The claimant did not have the harassing supervisor all the time because the employer rotates supervisors every six months. The employer goes over its harassment policy with employees once a year. The policy informs employees that if they are concerned about reporting harassment to their supervisor or local management team, they can report any issues or concerns directly to the corporate office.

On December 4, the claimant returned to work after being absent. The claimant gave the employer a November 19 and 23 doctor's statement to his supervisor who then gave the statements to Kinkade. When Kinkade looked at the statements, at least one looked altered. (Employer Exhibit One.) Kinkade found a doctor's statement in the claimant's personnel file dated July 30, 2012 that was an exact match to the one the claimant had just given to the employer. Kinkade then asked that the claimant come to his office.

The supervisor that harassed the claimant opened Kinkade's office door and told the claimant that he did not want the claimant to hurt his broke dick back. Kinkade told the claimant that the November 19 and 23 statements he gave the employer looked altered. Kinkade told the claimant that he was suspicious because one was identical to the statement the claimant gave the employer on July 30. The claimant responded, "You know I have a messed up back. I can't fake this stuff." Kinkade showed the claimant the November 19 and July 30 statements. When the statements were on top of one another the written content lined up perfectly. Kinkade made a comment about potential forgery which was a very serious offense. He then told the claimant that for now, the employer would take the claimant at his word but, the employer was going to investigate. When the claimant left the office, he told Kinkade he quit. The claimant quit effective immediately.

The claimant has back problems. Dr. Lisa Arndt has treated the claimant. The last time she saw the claimant was July 23, 2012. The last form or doctor's statement she completed for the claimant was on July 23, 2012. Dr. Arndt does not allow anyone in her office to complete work restrictions on her behalf. Dr. Arndt did not see or treat the claimant in November or early December. The November statement the claimant gave the employer on December 4 appeared to be signed by Dr. Arndt. (Employer Exhibit One.)

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

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer. Iowa Code § 96.5(1). When a claimant quits, he has the burden to establish he quit for reasons that qualify him to receive benefits. Iowa Code § 96.6(2).

The claimant's testimony is not credible. On December 4, he gave the employer a doctor's note allegedly signed by Dr. Arndt in November. Dr. Arndt had not seen the claimant since July 23, 2012. The November 23 statement, (Employer Exhibit One), appears to be altered. The claimant gave the employer a doctor's statement that was not signed by Dr. Arndt in November 2012.

Although the claimant asserted he quit because one supervisor harassed him, he also testified that if Kinkade had not told him the note looked as if it had been altered and the employer was going to investigate, he would not have quit. The credible evidence establishes the claimant quit because the employer discovered he had given them altered doctor's statements and the employer was going to investigate to determine if the recent doctor's statements were authentic or altered. The claimant quit for reasons that do not qualify him to receive benefits. As of December 23, 2012, the claimant is not qualified to receive benefits.

The issue of overpayment or whether the claimant is eligible for a waiver of overpayment of benefits he may have received since December 23, 2012, will be remanded to the Claims Section to determine.

**DECISION:**

The representative's January 18, 2013 determination (reference 01) is reversed. The claimant quit his employment for reasons that do not qualify him to receive benefits. The claimant is disqualified from receiving unemployment insurance benefits as of December 23, 2012. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged. The issue of overpayment or whether the claimant is eligible for a waiver of overpayment for any benefits he may have received since December 23, 2012, is **Remanded** to the Claims Section to determine.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/pjs