

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**BRIAN R LULOFF**  
Claimant

**APPEAL NO. 09A-UI-07549-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**JELD-WEN INC**  
Employer

**OC: 03/22/09**  
**Claimant: Respondent (2-R)**

Section 96.5-1 – Voluntary Quit  
871 IAC 24.25(21) – Dissatisfaction with Work Environment  
871 IAC 24.25(22) – Personality Conflict with Supervisor  
Section 96.3-7 – Recovery of Overpayment

**STATEMENT OF THE CASE:**

The employer appealed a department representative's decision dated May 7, 2009, reference 02, held the claimant was laid off from work for no disqualifiable reason on October 23, 2008, and benefits are allowed.

A telephone hearing was scheduled and held on June 10, 2009. The claimant participated. Aaron Brewin, Representative; Nicole Smith, Human Resource Manager; and John Harkin, Group Manager; participated on behalf of the employer.

**ISSUES:**

Whether the claimant voluntarily left with good cause attributable to the employer.

Whether the claimant is overpaid benefits.

**FINDINGS OF FACT:**

The claimant worked as a full time, second shift general laborer, from April 11, 2008, to October 21, 2008. The claimant averaged 40 or more hours each week, up to ten hours a day, Monday through Friday.

The claimant worked 48 hours for the week ending October 5, 2008. Manager Harkin announced to second shift employees that there would be a temporary layoff due to slow production schedules.

The claimant worked 30 hours the week ending October 10, but he missed scheduled work on Wednesday and Thursday. The claimant worked 20 hours on Monday and Tuesday of the week ending October 17, as there was no work available October 15-17.

The claimant last worked for the employer on about October 21, 2008. The claimant called in and left voicemail messages on the next two days, stating he would not be to work due to illness. The claimant called in on October 23, stating he was no longer going to work at Jeld-Wen, as he was not happy with his job. Earlier, during the course of employment, the claimant had requested HR Manager Smith to find a different job position in the company, as he did not like his supervisor. Manager Smith was not able to find another job for him.

The employer did announce a layoff to second shift employees during the first week of November 2008, but Manager Harkin did advise that some of the layoffs would be temporary, others permanent, and that employees on the second shift could move to different shifts.

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

The administrative law judge concludes that the claimant was not laid off, but voluntarily quit without good cause attributable to the employer on October 23, 2008.

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.

871 IAC 24.25(1) and (2) provide:

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:

(1) The claimant's lack of transportation to the work site unless the employer had agreed to furnish transportation.

(2) The claimant moved to a different locality.

While the claimant did experience a reduction in work hours for the week ending October 17, he did not work all scheduled hours that were made available to him during that month, such that the reduction constitutes a substantial change in his contract for hire as a full-time employee. The employer did not announce a date certain or a permanent layoff that the claimant could rely upon at the time that he chose to announce his decision to quit employment on October 23.

It should be noted that the claimant called in sick two days prior to quitting and then left a message he was no longer going to work for the employer, as he was unhappy with his job. Claimant acknowledged in this hearing that he had sought a change in position early on in his employment, because he did not like his supervisor.

The claimant quit employment, not due to any substantial change in his contract for hire, but due to a dissatisfaction with the work environment and a personality conflict with his supervisor that is disqualifying.

The administrative law judge further concludes since the claimant has been disqualified by reason of this decision, he is subject to an overpayment of benefits.

Iowa Code section 96.3-7 provides:

7. Recovery of overpayment of benefits. 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.

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.

**DECISION:**

The decision of the department representative dated May 7, 2009, reference 02, is reversed. The claimant voluntarily left without good cause attributable to the employer on October 23, 2008. Benefits are denied until the claimant has re-qualified by earning ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The issue of an overpayment is hereby remanded for determination.

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R. L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

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