

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**HECTOR RODRIGUEZ**  
Claimant

**APPEAL NO: 06A-UI-11065-BT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ADVANCE SERVICES INC**  
Employer

**OC: 10/01/06 R: 03**  
**Claimant: Respondent (2)**

Section 96.5-1 – Voluntary Quit  
Section 96.3-7 – Overpayment

**STATEMENT OF THE CASE:**

Advance Services, Inc. (employer) appealed an unemployment insurance decision dated November 2, 2006, reference 01, which held that Hector Rodriguez (claimant) was eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on December 4, 2006. The claimant participated in the hearing. The employer participated through Scott Sipker, Human Resources Coordinator. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant worked for this temporary employment agency as a seasonal, full-time field worker from April 29, 2006 through July 28, 2006 when he stopped reporting to work. Continuing work was available but the claimant quit before the completion of his assignment. The claimant did not have a driver's license and rode to work with his uncle but was no longer able to do that. He missed some work as a result of that but it is unknown why he stopped reporting to work.

The claimant filed a claim for unemployment insurance benefits effective October 1, 2006 and has received benefits after the separation from employment.

**REASONING AND CONCLUSIONS OF LAW:**

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits. He is not qualified to receive unemployment

insurance benefits if he voluntarily quit without good cause attributable to the employer. Iowa Code section 96.5-1.

The claimant contends he was discharged by the supervisor of the company to whom he was assigned. The company to whom the claimant was assigned to work was not his employer so could not discharge him. Furthermore, the employer was advised by the supervisor of that company that the claimant simply stopped reporting to work. In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980) and Peck v. Employment Appeal Bd., 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant demonstrated his intent to quit and acted to carry it out by failing to return to work. However, even if the claimant's contention that he was discharged was relied upon, he had a responsibility to contact his employer for an additional assignment and failed to do so.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify him. Iowa Code section 96.6-2. He has not satisfied that burden and benefits are denied.

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.

Because the claimant's separation was disqualifying, benefits were paid to which the claimant was not entitled. Those benefits must be recovered in accordance with the provisions of Iowa law.

**DECISION:**

The unemployment insurance decision dated November 2, 2006, reference 01, is reversed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are

withheld until he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The claimant is overpaid benefits in the amount of \$882.00.

---

Susan D. Ackerman  
Administrative Law Judge

---

Decision Dated and Mailed

sda/pjs