

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KEITH J DUNCOMBE
Claimant

APPEAL NO. 09A-UI-01450-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

GRISHAM INDUSTRIES INC
Employer

**OC: 06/01/08 R: 04
Claimant: Appellant (2)**

Section 96.4-3 – Eligibility for Benefits

STATEMENT OF THE CASE:

Keith J. Duncombe filed a timely appeal from an unemployment insurance decision dated January 23, 2009, reference 01, that disqualified him for benefits upon a finding that he had voluntarily left employment without good cause attributable to the employer on December 12, 2008. After due notice was issued, a telephone hearing was held January 23, 2009, with Mr. Duncombe participating. The employer, Grisham Industries, Inc., provided the name and telephone number of a witness. The telephone of the witness was answered by a recording when called at the time of the hearing. The administrative law judge left instructions for contacting the Appeals Section if the witness wished to participate. There was no contact from the employer thereafter.

ISSUE:

Did the claimant leave work with good cause attributable to the employer? Is the claimant eligible for unemployment insurance benefits?

FINDINGS OF FACT:

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: Keith J. Duncombe was employed by Grisham Industries, Inc. starting April 1, 2008. He last worked on December 12, 2008. He then requested an informal leave of absence to deal with personal matters involving his home. He spoke to the employer on various occasions and was told to contact the company when he was ready to come back to work. He contacted the employer in mid January 2009 but no work was available. He was told to contact the employer in about a month to see if work was then available.

REASONING AND CONCLUSIONS OF LAW:

The first question is whether there has been a separation from employment. The administrative law judge concludes that there was no separation from employment on December 12, 2008. The claimant did not quit. Instead, he requested personal time to deal with housing matters.

The evidence in this record persuades the administrative law judge that the employer agreed with the request. An individual on a leave of absence such as this is not eligible to receive unemployment insurance benefits. However, the employer had no work available for Mr. Duncombe when he offered his services again in the middle of January. The administrative law judge concludes that benefits should be allowed effective January 18, 2009.

DECISION:

The unemployment insurance decision dated January 23, 2009, reference 01, is reversed. The claimant has not quit. He was on a leave of absence following December 12, 2008 through January 17, 2009. He is entitled to receive unemployment insurance benefits thereafter, provided he is otherwise eligible.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs