

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOSEPH R HOLMES
Claimant

APPEAL NO. 07A-UI-08657-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BIG DOG MANAGEMENT SERVICES LLC
BIG DOG
Employer

OC: 07/22/07 R: 03
Claimant: Respondent (2)

Section 96.5-1 – Voluntary Quit
Section 96.3-7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated August 27, 2007, reference 05, which held claimant eligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on September 25, 2007. Employer participated by Bill Donnelly, CFO. Claimant failed to respond to the hearing notice and did not participate. Exhibits One was admitted into evidence.

ISSUE:

The issues in this matter are whether the claimant quit for good cause attributable to the employer and whether claimant is overpaid unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on July 27, 2007. Claimant quit because he was dissatisfied with deductions from his paycheck. Claimant had been taking fuel draws at the employer's expense. Claimant was to pay employer back for the fuel advances. The employer took all the fuel draws out of one check. The majority of the last check was taken for the fuel draws. Claimant quit because all of the fuel draws were taken from one check.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the evidence has not established that claimant voluntarily quit for good cause attributable to the employer when claimant terminated the employment relationship because of dissatisfaction with deductions from his paycheck. Claimant clearly understood that his fuel draws would come out of future earnings. Claimant did not negotiate any deduction amount with the employer. The employer was within its right to recover the fuel draw money. This is a personal reason for a quit. Benefits withheld.

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.

The next issue concerns an overpayment of unemployment insurance 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.

The administrative law judge holds that claimant is overpaid unemployment insurance benefits in the amount of \$1,622.00 pursuant to Iowa Code section 96.3-7 because a decision has determined claimant is ineligible to receive benefits due to a voluntary quit without good cause attributable to employer.

Since claimant has been disqualified for the receipt of unemployment insurance benefits, the claim shall be locked until claimant has re-qualified or is otherwise eligible.

DECISION:

The decision of the representative dated August 27, 2007, reference 05, is reversed. Unemployment insurance benefits are withheld until claimant has worked in and been paid

wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible. Claimant is overpaid unemployment insurance benefits in the amount of \$1,622.00.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/pjs