

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DOUGLAS G MAYES
Claimant

APPEAL NO. 09A-UI-01581-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SEDONA STAFFING
Employer

OC: 07/06/08 R: 03
Claimant: Respondent (2-R)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Sedona Staffing filed a timely appeal from an unemployment insurance decision dated January 27, 2009, reference 04, that allowed benefits to Douglas G. Mayes. After due notice was issued, a telephone hearing was held February 20, 2009, with Mr. Mayes participating. Unemployment Insurance Benefits Administrator Colleen McGuinty and Account Coordinator Anna Nielsen participated for the employer.

ISSUE:

Did the claimant leave work with good cause attributable to the employer?

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Douglas G. Mayes was employed by Sedona Staffing from August 8, 2008, until he resigned December 1, 2008. He last worked on assignment for the employer's client, Prinsco. The assignment had not ended when Mr. Mayes walked off the job. Mr. Mayes believed that he would be laid off on December 10, 2008. He was unhappy that Prinsco had not hired him to be a permanent worker and because his supervisor from Prinsco had declined to slow down the production line. He resigned because he felt that Prinsco was taking advantage of him. He contacted Sedona staffing on the next day to seek re-assignment.

REASONING AND CONCLUSIONS OF LAW:

The question is whether Mr. Mayes left employment with good cause attributable to the employer. He did not.

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 evidence establishes that Mr. Mayes resigned because he felt that he would be laid off soon but that work remained for him for at least another week. Resignation under such circumstances is not considered to be for good cause attributable to the employer. See 871 IAC 24.35(29). The record also establishes that Mr. Mayes was dissatisfied in general with the work environment, since the company had not yet taken him on as a permanent employee and specifically because he felt that the pace of work was too fast on the night that he resigned. Dissatisfaction with the work environment does not give an individual good cause attributable to the employer to resign. See 871 IAC 24.25(21).

Considering each of the reasons for the resignation and the totality of the circumstances, the administrative law judge concludes that the claimant has not established by a preponderance of the evidence that he resigned with good cause attributable to the employer. Benefits must be withheld.

Iowa Code section 96.3-7, as amended in 2008, provides:

7. Recovery of overpayment of benefits.

- a. 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.

- b. (1) 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. However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment. The employer shall not be charged with the benefits.

- (2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the department to represent any employers in unemployment insurance matters. This subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

The question of whether Mr. Mayes must repay unemployment insurance benefits already received is remanded to the Unemployment Insurance Services Division.

DECISION:

The unemployment insurance decision dated January 27, 2009, reference 04, is reversed. Benefits are withheld until the claimant 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 question of whether he must repay benefits already received is remanded to the Unemployment Insurance Services Division.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

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