

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

TROY R SRIGLEY
1207 INDIGO
HAMPTON IA 50441

HAMPTON HEATING CO
7 – 2ND AVE NE
HAMPTON IA 50441

Appeal Number: 05A-UI-11182-DWT
OC: 10/16/05 R: 02
Claimant: Respondent (4)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

871 IAC 24.25(40) - Leave Prior to Scheduled Layoff
Section 96.3-7- Recovery of Voluntary Quit

STATEMENT OF THE CASE:

Hampton Heating Company (employer) appealed a representative's October 28, 2005 decision (reference 02) that concluded Troy R. Srigley (claimant) was qualified to receive unemployment insurance benefits because he completed a temporary job. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 15, 2005. The claimant participated in the hearing. James Kent, the controller, and Ted Guldberg, the owner, appeared on the employer's behalf. 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.

ISSUES:

Did the claimant voluntarily quit his employment for reasons that qualify him to receive unemployment insurance benefits, or did the employer discharge the claimant for work-connected misconduct?

Has the claimant been overpaid any unemployment insurance benefits?

FINDINGS OF FACT:

The employer hired the claimant on October 4, 2005, to work as a part-time seasonal employee. The claimant worked on plumbing projects. On October 19, 2005, the claimant was late for work because he had a flat tire on the way to work. When the claimant arrived at work, the employer assigned him to help another employee with a furnace. This job was completed at 2:00 p.m. On October 19, 2005, the claimant understood that because there were no plumbing jobs for him to do, he did not have a job after October 19, 2005. The employer, however, wanted the claimant to work until October 22. The employer had work at the shop and some miscellaneous jobs for the claimant to do. Based on his understanding, the claimant did not return to work after October 19, 2005.

The claimant established claim for benefits during the week of October 16, 2005. The claimant filed a claim and reported earning \$264.00 for this week. The claimant received a payment of partial benefits - \$233.00 for this week.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §§96.5-1, 2-a.

The evidence establishes the employer did not have any more work for the claimant to do after October 21, 2005. The claimant, however, left work two days early. The law provides that when a claimant voluntarily quits in advance of announced scheduled layoff; the disqualification period will be from the last day worked to the date of the scheduled layoff. Benefits shall not be denied from the effective date of the scheduled layoff. 871 IAC 24.25(40). Since the claimant could have worked until October 21 but did not, he is not eligible to benefits for the week ending October 22, 2005. As of October 23, 2005, the claimant is qualified to receive unemployment insurance benefits.

If an individual receives benefits he is not legally entitled to receive, the Department shall recover the benefits even if the individual acted in good faith and is not at fault in receiving the overpayment. Iowa Code §96.3-7. The claimant is not legally entitled to receive any benefits for the week ending October 22, 2005. He has been overpaid \$233.00 in benefits he received this week.

Since the claimant's employment ended because the employer did not have any more work for the claimant to do after October 22, 2005, the employer's account may at some future date be subject to charge based on the wage credits the claimant earned between October 4 and 19, 2005. During the claimant's current benefit year, the employer's account will not be charged because the employer is not one of the claimant's base period employers.

DECISION:

The representative's October 28, 2005 decision (reference 02) is modified in the employer's favor. The claimant is not eligible to receive benefits for the week ending October 22, 2005, because he left work before a scheduled layoff. As of October 23, 2005, the claimant is qualified to receive unemployment insurance benefits, provided he meets all other eligibility requirements. During the claimant's current benefit year, the employer's account will not be charged. The claimant is not legally entitled to receive unemployment insurance benefits during the week ending October 22, 2005. He has been overpaid and must repay \$233.00 in benefits he received for this week.

dlw/tjc