

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SCOTT M GIBSON
Claimant

APPEAL NO. 06A-UI-10554-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

KELLY SERVICES INC
Employer

**OC: 09/24/06 R: 02
Claimant: Respondent (4)**

Section 96.7-2-a (2) – Employer Liability

STATEMENT OF THE CASE:

Kelly Services, Inc. (employer) appealed a representative's October 27, 2006 decision (reference 02) that concluded Scott M. Gibson (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the reasons for the claimant's employment separation were nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 13, 2006. The claimant failed to respond to the hearing notice by contacting the Appeals Section prior to the hearing and providing the phone number at which he could be contacted to participate in the hearing. As a result, no one represented the claimant. Stephanie Weber, a supervisor, 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.

ISSUE:

Is the employer's account subject to charge?

FINDINGS OF FACT:

The claimant registered to work with the employer on January 9, 2006. The employer assigned the claimant to a job at EDS on January 16, 2006. The claimant did not work at this assignment after February 6, 2006, even though there was continuing work for him to do. When the employer did not receive any hours for the claimant from February 6 through 13, the employer contacted EDS and learned the claimant told his EDS supervisor he had quit.

After the claimant worked for the employer, but before he established his unemployment insurance benefits, the week of September 24, 2006, he earned wages from other employers of more than \$2,320.00.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quit employment without good cause attributable to the employer. Iowa Code § 96.5-1. An

employer's account is not subject to charge when a claimant voluntarily quits employment without good cause attributable to the employer. Iowa Code § 96.7-2-a-2(a).

Since the claimant did not participate at the hearing, it is not known why the claimant quit. When a claimant quits, he has the burden to establish he quit with good cause. Iowa Code § 96.6-2. The evidence does not establish that the claimant quit for reasons that qualify him to receive unemployment insurance benefits. However, a claimant can requalify to receive benefits by earning and being paid ten times his weekly benefit amount for insured work. In this case the claimant requalified to receive benefits by earning wages that exceed ten times his weekly benefits. Therefore, as of September 24, 2006, the claimant is qualified to receive benefits as of September 24, 2006.

The employer's account will not be charged because the claimant quit his employment for reasons that would not qualify him to receive benefits.

DECISION:

The representative's October 27, 2006 decision (reference 02) is modified in the employer's favor. The claimant voluntarily quit his employment for reasons that would not qualify him to receive unemployment insurance benefits. Since the claimant earned was paid more than ten times his weekly benefit amount for insured work between February 6 and September 24, 2006, the claimant is not disqualified from receiving benefits based on this employment separation. The employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw