

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RICHARD COX
Claimant

APPEAL NO: 07A-UI-02436-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

NATIONWIDE MUTUAL INSURANCE CO
Employer

OC: 01-21-07 R: 02
Claimant: Respondent (2)

Section 96.5-1 – Voluntary Leaving
Section 96.3-7 – Recovery of Benefit Overpayment

STATEMENT OF THE CASE:

The employer filed a timely appeal from the February 27, 2007, reference 05, decision that allowed benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on March 27, 2007. The claimant participated in the hearing. Lisa Anderson, Human Resources Consultant and Eugene Orlandes, Supervisor II, participated in the hearing on behalf of the employer. Employer's Exhibits One through Four were admitted into evidence.

ISSUE:

The issue is whether the claimant voluntarily left his employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time production operator safety sensitive for Nationwide Mutual Insurance from December 27, 1999 to June 2, 2006. He testified he chose to leave his employment to help his wife start a daycare center. The employer believed he abandoned his job because he called in sick and faxed a doctor's note excusing him from work May 22 through May 26, 2006, but did not call or show up for work after that date despite repeated attempts by the employer to contact him.

The claimant has claimed and received unemployment insurance benefits since his separation from this employer.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment without good cause attributable to the employer.

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.

In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2. The claimant left his employment to help his wife start a daycare center. While he may have had good personal reasons for quitting his job, his leaving was not attributable to the employer as required by Iowa law. Consequently, the administrative law judge concludes the claimant voluntarily left his employment and has not demonstrated that his leaving was for good cause attributable to the employer. Benefits are denied.

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.

Because the claimant's separation was disqualifying, benefits were paid to which the claimant was not entitled. Those benefits must be recovered in accordance with the provisions of Iowa law.

DECISION:

The February 27, 2007, reference 05, decision is reversed. The claimant voluntarily left his employment without good cause attributable to the employer. Benefits are withheld until such

time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The claimant is overpaid benefits in the amount of \$3,690.00.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs