

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KRIS M WALLACE**  
Claimant

**APPEAL NO. 11A-UI-16509-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**PARCO LTD**  
Employer

**OC: 11/27/11**  
**Claimant: Respondent (2-R)**

Section 96.5(1) – Quit

**STATEMENT OF THE CASE:**

The employer, Parco, filed an appeal from a decision dated December 21, 2011, reference 01. The decision allowed benefits to the claimant, Kris Wallace. After due notice was issued, a hearing was held by telephone conference call on January 30, 2012. The claimant participated on his own behalf. The employer participated by Director of Operations Greg Smith.

**ISSUE:**

The issue is whether the claimant quit work with good cause attributable to the employer.

**FINDINGS OF FACT:**

Kris Wallace was employed by Parco from September 30 to November 29, 2011 as a full-time general manager of the Wendy's store. Parco had bought the business from another company effective September 30, 2011. Prior to that Mr. Wallace had been informed his salary would be reduced by \$4,000.00 per year but he would be eligible for bonuses in excess of that based on the performance of the store. His yearly vacation accumulation would also be reduced by one week. He agreed to these changes.

The new owners had a policy that management personnel could work fewer hours the holiday weeks of Thanksgiving and Christmas but still be paid the same salary. Mr. Wallace was short on managers because one had transferred to another store, one was on medical leave and the third one had been granted vacation for that week before the claimant knew about the holiday structure.

He contacted Human Resources Director Pam Pray to discuss whether he could take his "holiday" hours the week after Thanksgiving because of the situation in his store. She said the company did not customarily make any exceptions and he became very angry and began to complain about all the changes Parco had made and he felt the employer was unfair. Ms. Pray pointed out that he had been given bereavement leave without any problem when his father died. The claimant believed Ms. Pray was equating holiday pay with bereavement leave and hung up. Later Ms. Pray did discuss the matter with higher management and the decision was made to allow Mr. Wallace to take his holiday hours the week after Thanksgiving. But before he

could be notified of this exception he notified District Manager Jason Larson he was quitting and designated November 29, 2011, as his last day.

Kris Wallace has received unemployment benefits since filing a claim with an effective date of November 27, 2011.

## **REASONING AND CONCLUSIONS OF LAW:**

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.

There was no change in the contract of hire because Mr. Wallace had been informed of the changes before Parco took over the business and the claimant agreed. While he might have decided later this was not in his best interests, there was no deception on the part of the new owners.

The final incident was being told by the human resources person that it was not customary to make an exception and allow holiday hours to be taken the week after the holiday week and he became angry. Before a final decision could be made by the employer on this issue, he quit.

Mr. Wallace may have been angry and dismayed that things did not work out as well as he thought they would with the new owner. But this does not constitute good cause attributable to the employer for quitting. "Good cause" for leaving employment must be that which is reasonable to the average person, not to the overly sensitive individual or the claimant in particular. *Uniweld Products v. Industrial Relations Commission*, 277 So.2d 827 (Florida App. 1973). The claimant is disqualified.

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 claimant has received unemployment benefits to which he is not entitled. The question of whether the claimant must repay these benefits is remanded to the UIS division.

**DECISION:**

The representative's decision of December 21, 2011, reference 01, is reversed. Kris Wallace is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount in insured work, provided he is otherwise eligible. The issue of whether the claimant must repay the unemployment benefits is remanded to UIS division for determination.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

bgh/css