

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

ROBERT J DEROCHIE
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SIOUX CITY IA 51105-3711

WMX TECHNOLOGIES INC
c/o UCH SPECIAL
WASTE MANAGEMENT OF IOWA INC
PO BOX 749000
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Appeal Number: 06A-UI-07846-DWT
OC: 07/02/06 R: 01
Claimant: Respondent (2)

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)

Section 96.5-1 – Voluntary Quit
Section 96.3-7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

Waste Management of Iowa, Inc. (employer) appealed a representative's July 27, 2006 decision (reference 01) that concluded Robert J. Derochie (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant voluntarily quit his employment for reasons that qualify him to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 21, 2006. The claimant participated in the hearing. Jackie Wiegand, a representative with TALX, appeared on the employer's behalf. David McCorde, a site manager, testified 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?

Has the claimant been overpaid any unemployment insurance benefits?

FINDINGS OF FACT:

The claimant started working for the employer on May 8, 2006. The employer hired the claimant to work as a full-time route service driver. McCorde was the claimant's supervisor.

During his employment, McCorde talked to the claimant about some policies the claimant violated. The employer considered these violations pertained to safety issues. At various times, the claimant reported mechanical problems with the truck(s) he drove. In late June, the claimant reported a hydraulic fluid leak a number of days before the employer's mechanics fixed or attempted to fix the leak. Although the claimant wanted the leak fixed correctly right away, the employer's two mechanics were very busy and had to prioritize their work. The leak was not repaired immediately.

On July 5, the employer's mechanics indicated the hydraulic fluid leak had been repaired. When the claimant took his truck on his route the morning of July 8, there were again problems. The claimant took his truck back to the shop and started driving the spare truck. The spare truck broke down six blocks later. The claimant then informed the employer he was quitting effective immediately because of continual problems with the truck(s) he drove. The claimant considered the problems with trucks a safety concern.

When McCorde did not resolve the claimant's concerns in a satisfactory way, the claimant could have contacted McCorde's supervisor or called an 800 number to report his concerns to the employer's upper management. The claimant did not do this.

The claimant established a claim for unemployment insurance benefits during the week of July 2, 2006. The claimant filed claims for the weeks ending July 8 through August 12, 2006. The claimant received his maximum weekly benefit amount of \$379.00 for each of these weeks.

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. Iowa Code section 96.5-1. The claimant voluntarily quit this employment. When a claimant quits, he has the burden to establish he quit with good cause attributable to the employer. Iowa Code section 96.6-2.

The law presumes a claimant voluntarily quits employment with good cause when a claimant leaves employment because of detrimental or intolerable working conditions. 871 IAC 24.26(4). The facts reveal the truck the claimant drove had a hydraulic fluid leak. Although the claimant considered the leak a safety issue, neither McCorde nor the mechanics came to the same conclusion. The employer's mechanics attempted to fix the leak so the truck was operational or completed a temporary fix of the problem. The first time the claimant's records mention a hydraulic leak was June 26. When the claimant quit, he did so at a time he was completely frustrated with the employer's trucks and mechanics. While the claimant established

compelling personal reasons for quitting, the facts do not establish that the claimant quit because of detrimental or intolerable working conditions. Therefore, as of July 2, 2006, the claimant is not 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 section 96.3-7. The claimant is not legally entitled to receive benefits for the weeks ending July 8 through August 12, 2006. The claimant has been overpaid \$2,118.00 in benefits he received for these weeks.

DECISION:

The representative's July 27, 2006 decision (reference 01) is reversed. The claimant voluntarily quit his employment for personal reasons that do not qualify him to receive unemployment insurance benefits. The claimant is disqualified from receiving unemployment insurance benefits as of July 2, 2006. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged. The claimant is not legally entitled to receive benefits for the weeks ending July 8 through August 12, 2006. The claimant has been overpaid and must repay a total of \$2,118.00 in benefits he received for these weeks.

dlw/pjs