

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**RICHARD A HASS**  
Claimant

**APPEAL NO. 07A-UI-09593-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**GATEWAY BUILDING SYSTEMS INC**  
Employer

**OC: 12/31/06 R: 02  
Claimant: Respondent (2)**

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

**STATEMENT OF THE CASE:**

Gateway Building Systems, Inc. (employer) appealed a representative's October 8, 2007 decision (reference 03) that concluded Richard A. Hass (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant had been laid off for lack of work on August 31, 2007. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 29, 2007. 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. Elizabeth Goetz, the human resource manager, appeared on the employer's behalf. Based on the evidence, the arguments of the employer, 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 him for work-connected misconduct?

Has the claimant been overpaid any unemployment insurance benefits?

**FINDINGS OF FACT:**

The employer hired the claimant as a temporary construction laborer with the understanding the employer could ask the claimant to work at another location at the end of the job. The claimant began working full time for the employer on April 26, 2007, at a Grinnell, Iowa, job site.

The majority of the work at the Grinnell site was coming to an end in early September. The job foreman talked to the claimant about continuing his employment at the next job site in Indiana. The foreman understood the claimant would work at the Indiana job site. As a result, the claimant was invited to continue doing cleanup work in Grinnell until the Indiana job started.

The claimant did not return to work after September 1, 2007. The employer did not know why the claimant did not do clean up work in Grinnell or travel with the employer to Indiana, the next job site.

The claimant reopened his claim for unemployment insurance benefits during the week of September 2, 2007. He filed a claim for the week ending September 8, 2007. He received \$347.00 in benefits 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. Based on the facts presented at the hearing, the employer did not discharge the claimant. Instead, the employer had continuing work for the claimant to do after September 1, 2007. The employer offered the claimant work in Indiana and understood he intended to continue his employment. The facts establish the claimant quit his employment by failing to return to work after September 1, 2007.

When a claimant quits, he has the burden to establish he quit for reasons that qualify him to receive unemployment insurance benefits. Iowa Code § 96.6-2. Since the claimant did not participate in the hearing, the facts do not reveal why he did not continue working for the employer. As a result, the evidence does not establish that the claimant quit his employment for reasons that qualify him to receive unemployment insurance benefits. As of September 2, 2007, 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 § 96.3-7. The claimant is not legally entitled to receive benefits for the week ending September 8, 2007. He has been overpaid \$347.00 in benefits he received for this week.

**DECISION:**

The representative's October 8, 2007 decision (reference 03) is reversed. The employer did not lay off the claimant for lack of work. Instead, the employer had continuing work for the claimant to do and the claimant voluntarily quit his employment. The facts do not establish that the claimant quit for reasons that qualify him to receive unemployment insurance benefits. The claimant is disqualified from receiving unemployment insurance benefits 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 week ending September 8, 2007. He has been overpaid and must repay a total of \$347.00 in benefits he received for this week.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/kjw