

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DANIEL J FOSTER**  
Claimant

**APPEAL NO. 08A-UI-04560-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MANPOWER TEMPORARY SERVICES**  
Employer

**OC: 04-06-08 R: 04  
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 May 2, 2008, reference 01, decision that allowed benefits. After due notice was issued, a hearing was held on May 28, 2008. The claimant did not participate. The employer did participate through Julie White, Staffing Specialist and (representative) Mari Rada, Staffing Specialist. Employer's Exhibit One was received.

**ISSUE:**

Was the claimant discharged for work-related misconduct?

Has the claimant been overpaid any unemployment insurance benefits?

**FINDINGS OF FACT:**

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: Claimant was last assigned to work at Lewis Brothers as a welder full time beginning February 6, 2008 through April 8, 2008 when he voluntarily quit.

On April 8, 2008, the claimant was to work from 7:00 a.m. until 3:30 p.m. He left work at Lewis Brothers at noon and did not return. The claimant did not report to Lewis Brothers or to Manpower that he was not returning to work. The claimant was then a no-call/no-show for work for three consecutive scheduled workdays beginning April 9, 10, 11, 2008 in violation of the employer's policy.

Manpower attempted to contact the claimant after he was a no-call/no-show for work but the claimant did not return their calls until April 14 at which time he reported that he had quit the assignment because some of his coworkers were picking on him. He did not provide the details about what took place. Ms. Rada at Manpower contacted an employee of Lewis Brothers who indicated that the claimant had not made any complaints about his treatment to anyone while he was working there.

Claimant has received unemployment benefits since filing a claim with an effective date of April 6, 2008.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left 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.

871 IAC 24.25(4) provides:

Voluntary quit without good cause. 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. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

Inasmuch as the claimant failed to report for work or notify the employer for three consecutive workdays in violation of the employer policy, the claimant is considered to have voluntarily left employment without good cause attributable to the employer. Benefits are withheld.

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 has not met his burden of proving that his leaving was due to a detrimental work environment. Quitting because other employees were picking on him, does not establish an intolerable work environment.

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

**DECISION:**

The May 2, 2008, reference 01, decision is reversed. The claimant voluntarily left 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. Claimant is overpaid benefits in the amount of \$882.00.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

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