

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

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Appeal Number: 06A-UI-01719-SWT
OC: 01/01/06 R: 03
Claimant: Respondent (2-R)

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:

The employer appealed an unemployment insurance decision dated February 7, 2006, reference 01, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on February 27, 2006. The parties were properly notified about the hearing. The claimant failed to participate in the hearing. Doris Fuhs participated in the hearing on behalf of the employer.

FINDINGS OF FACT:

The claimant worked for the employer as a supervisor on the fencing crew from November 4, 2003, to January 16, 2006. He was informed and understood that under the employer's work rules, employees were required to notify the employer if they were not able to work as scheduled.

The claimant reopened a claim for unemployment benefits effective December 4, 2005, because the employer had no work for him during the weeks ending December 10, December 17, and December 24. During the week ending December 31, 2005, however, the claimant worked 22.5 hours and earned \$236.25 in wages, but he failed to report the wages on his weekly claim for that week.

The claimant filed a new claim for unemployment insurance benefits with an effective date of January 1, 2006, after his old benefit year expired. During the week ending January 7, 2006, the claimant worked 25 hours and earned \$262.50 in wages, but he failed to report the wages on his weekly claim for that week. During the week ending January 14, 2006, the claimant worked 5.5 hours and earned \$57.75 in wages, but he failed to report the wages on his weekly claim for that week.

The claimant worked seven hours on January 16, 2006. After working that day, the claimant never reported to work again. There was continuing work available for the claimant during that week and the other member of the crew worked 34.5 hours. Since that time, the employer has had work available every week for the fencing crew.

The claimant voluntarily left employment for unknown reasons. He came in on Friday to pick up his check but did not explain his whereabouts or ask to come back to work.

The claimant filed for and received a total of \$1, 235.00 in unemployment insurance benefits for the weeks between January 15 and February 18, 2006.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant voluntarily quit 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.

The preponderance of the evidence establishes that the claimant abandoned his job by failing to report to work or call in after January 16, 2006. Good cause for leaving employment has not been proven. The claimant is disqualified from receiving unemployment insurance benefits effective January 15, 2006, since he voluntarily quit employment without good cause attributable to the employer during that week.

The next issue in this case is whether the claimant was overpaid unemployment insurance benefits.

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.

The claimant was overpaid \$1,235.00 in benefits for the weeks between January 15 and February 18, 2006.

The issue of whether the claimant failed to report work and earnings for the week ending December 31, 2005; January 7, 2006; January 14, 2006; and January 21, 2006, is remanded to the agency for an investigation and determination.

DECISION:

The unemployment insurance decision dated February 7, 2006, reference 01, is reversed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. He was overpaid \$1,235.00 in unemployment insurance benefits, which must be repaid. The issue of whether he failed to report work and earnings for the week ending December 31, 2005; January 7, 2006; January 14, 2006; and January 21, 2006, is remanded to the Unemployment Insurance Services Division.

saw/s