

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

OTIS L HENDERSON

Claimant

APPEAL NO. 06A-UI-11922-AT

**ADMINISTRATIVE LAW JUDGE
AMENDED DECISION**

CREATIVE VISIONS INC

Employer

**OC: 11/05/06 R: 02
Claimant: Respondent (2)**

Section 96.5-1 – Voluntary Quit
Section 96.3-7 – Recovery of Overpayments

STATEMENT OF THE CASE:

Creative Visions, Inc. filed a timely appeal from an unemployment insurance decision dated December 1, 2006, reference 01, that allowed benefits to Otis L. Henderson. After due notice was issued, a telephone hearing was held December 27, 2006 with Mr. Henderson participating. Chief Executive Officer Ako Abdul-Samad and former employee Denise Douglas participated for the employer.

ISSUES:

Did the claimant leave work voluntarily with good cause attributable to the employer?

Has the claimant been overpaid?

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Otis L. Henderson was employed by Creative Visions, Inc. from August 2004 until he resigned January 31, 2006. He last worked full time as job placement director. Mr. Henderson resigned because of staffing problems within the job placement program he supervised. He complained to CEO Ako Abdul-Samad about some of the staff working in the program. Mr. Abdul-Samad told Mr. Henderson that he, Mr. Henderson, had the power to hire and fire the people under his supervision. All Mr. Abdul-Samad requested was a written list outlining personnel changes. Neither Mr. Abdul-Samad nor Denise Douglas, at the time Mr. Henderson's direct supervisor, received any such list. Mr. Henderson did not make any changes in the staff working for him.

At the time of Mr. Henderson's resignation, the City of Des Moines was conducting an audit of the job placement program. Mr. Henderson could not find folders for all of the individuals he assisted. Shortly before his resignation, Mr. Henderson requested a week's leave of absence. At the end of the week he told Mr. Abdul-Samad that he would not be returning. Mr. Henderson filed a claim for unemployment insurance benefits effective November 5, 2006. Between January 31 and November 5, 2006, he was employed elsewhere. The agency has no record of his earnings from his subsequent employment.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence establishes that the claimant left work with good cause attributable to the employer. For the reasons which follow, the administrative law judge concludes that it does not.

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 claimant has the burden of proof. See Iowa Code section 96.6-2. An individual may receive unemployment insurance benefits if the individual has left employment because of intolerable or detrimental working conditions created by the employer. See 871 IAC 24.26(4). On the other hand, an individual is disqualified for benefits if the individual has left work because of dissatisfaction with the work environment. See 871 IAC 24.25(21). The evidence in this record persuades the administrative law judge that Mr. Henderson was dissatisfied with the performance of the job placement program, the program under his supervision. The evidence does not establish that senior management at Creative Visions, Inc. interfered with Mr. Henderson's management of the program. Mr. Henderson's dissatisfaction with the performance of his own staff does not constitute intolerable or detrimental working conditions. Benefits must be withheld.

An individual requalifies for unemployment insurance benefits by earning ten times the individual's weekly benefit amount in wages for insured work with subsequent employers. At this time, the agency has no record of any subsequent earnings by Mr. Henderson. Based upon information available at this time, the administrative law judge concludes that the claimant has received unemployment insurance benefits to which he is not entitled. They must be recovered in accordance with the provisions of Iowa Code section 96.3-7.

DECISION:

The unemployment insurance decision dated December 1, 2006, reference 01, is reversed. The claimant left work voluntarily without good cause attributable to the employer. Benefits are withheld until he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. He has been overpaid by \$2,338.00.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs/kjw