

**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**

**BRYANT T HARDIN  
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ROUTE 873  
PO BOX 25  
SCHNECKSVILLE PA 18078-0025**

**PARISIAN VIRGINIA LLC  
c/o TALX UC EXPRESS  
PO BOX 283  
ST LOUIS MO 63166-0283**

**Appeal Number: 06A-UI-04833-RT  
OC: 04/02/06 R: 12  
Claimant: Appellant (1)**

**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, 4<sup>th</sup> 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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

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

STATEMENT OF THE CASE:

The claimant, Bryant T. Hardin, filed a timely appeal from an unemployment insurance decision dated April 25, 2006, reference 01, denying unemployment insurance benefits to him. After due notice was issued, a telephone hearing was held on May 22, 2006, with the claimant not participating. The claimant did not call in a telephone number, either before the hearing or during the hearing, where he or any of his witnesses could be reached for the hearing, as instructed in the notice of appeal. Maureen Janssen, Human Resources Manager, participated in the hearing for the employer, Parisian Virginia LLC. Kathy Done, Human Resources Assistant, was available to testify for the employer but not called because her testimony would

have been repetitive and unnecessary. The administrative law judge takes official notice of Iowa Workforce Development Department unemployment insurance records for the claimant.

#### FINDINGS OF FACT:

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: The claimant was employed by the employer as a full-time merchandise support associate from June 29, 2004, until he voluntarily quit effective March 31, 2006. On or about March 21, 2006, the claimant provided the employer a two-week resignation notice in writing indicating that he would be quitting effective March 31, 2006. The claimant worked until that date and then came to work no more. The claimant indicated in his written resignation that he was quitting to relocate to another city because his living conditions in Iowa had changed. The claimant did have a disagreement with his manager which he reported to human resources and which was addressed by human resources and taken care of and the claimant had no further complaints. Pursuant to his claim for unemployment insurance benefits filed effective April 2, 2006, the claimant has received no unemployment insurance benefits. Records indicate that the claimant is disqualified to receive unemployment insurance benefits as a result of a voluntary quit. The claimant only applied for three weeks of benefits, from the benefit week ending April 8, 2006 to the benefit week ending April 22, 2006.

#### REASONING AND CONCLUSIONS OF LAW:

The questions presented by this appeal are as follows:

1. Whether the claimant's separation from employment was a disqualifying event. It was.
2. Whether the claimant is overpaid unemployment insurance benefits. He is not because he has received no such benefit.

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(2)(20)(23) 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:

- (2) The claimant moved to a different locality.

(20) The claimant left for compelling personal reasons; however, the period of absence exceeded ten working days.

(23) The claimant left voluntarily due to family responsibilities or serious family needs.

The employer's witness, Maureen Janssen, Human Resources Manager, credibly testified, and the administrative law judge concludes, that the claimant left his employment voluntarily pursuant to a written resignation effective March 31, 2006. The issue then becomes whether the claimant left his employment without good cause attributable to the employer. The administrative law judge concludes that the claimant has the burden to prove that he has left his employment with the employer herein with good cause attributable to the employer. See Iowa Code section 96.6-2. The administrative law judge concludes that the claimant has failed to meet his burden of proof to demonstrate by a preponderance of the evidence that he left his employment with the employer herein with good cause attributable to the employer. The claimant did not participate in the hearing and provide reasons attributable to the employer for his quit. The claimant's resignation letter states that he quit to relocate to another city because his living conditions had changed. Leaving work voluntarily to move to a different locality is not good cause attributable to the employer. Further, leaving work voluntarily for compelling personal reasons when the period of absence exceeds ten working days as it does here or because of family responsibilities or serious family needs is also not good cause attributable to the employer. There is not a preponderance of the evidence that the claimant's working conditions were unsafe, unlawful, intolerable or detrimental or that he was subjected to a substantial change in his contract of hire. The claimant did complain about his manager but that was addressed by human resources and taken care of and the claimant made no further complaints. Accordingly, the administrative law judge concludes that the claimant left his employment voluntarily without good cause attributable to the employer and, as a consequence, he is disqualified to receive unemployment insurance benefits. Unemployment insurance benefits are denied to the claimant until, or unless, he requalifies for such 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.

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.

The administrative law judge concludes that the claimant has received no unemployment insurance benefits since separating from his employer on or about March 31, 2006 and filing for such benefits effective April 2, 2006. Since the claimant has received no unemployment insurance benefits he is not overpaid any such benefits.

DECISION:

The representative's decision of April 25, 2006, reference 01, is affirmed. The claimant, Bryant T. Hardin, is not entitled to receive unemployment insurance benefits, until, or unless, he requalifies for such benefits, because he left his employment voluntarily without good cause attributable to the employer. Since the claimant has received no unemployment insurance benefits he is not overpaid such benefits.

cs/pjs