

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

CARL D KNIGHT
1534 – 4TH ST
DES MOINES IA 50314-3212

IOWA DEPARTMENT OF COMMERCE
ALCOHOLIC BEVERAGES DIVISION
C/O TALX UC EXPRESS
PO BOX 283
ST LOUIS MO 63166-0283

Appeal Number: 06A-UI-07046-CT
OC: 06/11/06 R: 02
Claimant: Respondent (2)

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(2)a – Discharge for Misconduct
Section 96.3(7) – Recovery of Overpayments

STATEMENT OF THE CASE:

Iowa Department of Commerce filed an appeal from a representative's decision dated June 30, 2006, reference 01, which held that no disqualification would be imposed regarding Carl Knight's separation from employment. After due notice was issued, a hearing was held by telephone on July 27, 2006. Mr. Knight participated personally. The employer participated by James Kuhlman, Operations Manager and Lynn Walding, Administrator.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Knight began working for the Iowa Department of Commerce, Alcoholic Beverages Division, in October of 2005. He was employed full-time as facility maintenance coordinator. On May 24, 2006, he was notified that he was the subject of a disciplinary investigation based on allegations that he violated policies of the division. He called in sick on May 25 and May 26.

When Mr. Knight returned to work on his next scheduled day, May 30, he could not access the building. Later that day, he spoke with James Kuhlman, who notified him that he was on paid administrative leave pending the investigation. Mr. Knight voiced his displeasure at being investigated and notified Mr. Kuhlman that he was quitting. Arrangements were made for Mr. Knight to come in on June 2 to sign the resignation form. He did not report for the meeting on June 2 on the advice of legal counsel. On June 2, Lynn Walding contacted Mr. Knight by telephone and read to him the contents of a May 30 letter to Mr. Knight. The letter included a reference to Mr. Knight's May 30 statement to Mr. Kuhlman that he was quitting. Mr. Knight did not indicate to Mr. Walding that he had any disagreement with the contents of the letter. He indicated he would make arrangements with Mr. Kuhlman to sign the letter at a later time. He did not do so.

Pursuant to the collective bargaining agreement under which Mr. Knight worked, he could not remain on administrative leave for more than 21 days. If the employer had not completed its investigation at that point, it would have had to return Mr. Knight to work. Although he was on suspension and could not report for work, he still had employment when he quit.

Mr. Knight has been paid a total of \$1,944.00 in job insurance benefits since filing his claim effective June 11, 2006.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Knight was separated from employment for any disqualifying reason. He denied that he told anyone that he quit as testified by the employer. However, the administrative law judge found the employer's testimony more persuasive. Mr. Kuhlman was credible in his testimony that Mr. Knight told him he was quitting. Mr. Walding was credible in his testimony that Mr. Knight did not dispute the contents of the May 30 letter which referenced his statement that he quit. The administrative law judge has also considered the fact that Mr. Knight told Mr. Walding on June 2 that he would contact Mr. Kuhlman later to make arrangements to sign the letter. Mr. Knight acknowledged in his testimony that he made such a statement to Mr. Walding. If he did, in fact, disagree with the May 30 letter that said he quit, it seems unlikely that he would make arrangements to sign it. The above factors establish to the satisfaction of the administrative law judge that Mr. Knight did quit on May 30, 2006.

An individual who voluntarily quits employment is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). Having taken the position that he did not quit, Mr. Knight did not offer any reason as to why he would quit. The evidence of record does not establish any cause attributable to the employer for the quit. It is not unreasonable for an employer to investigate allegations of policy violations. Although Mr. Knight may have been unhappy that there was an investigation pending, the investigation did not constitute good cause attributable to the employer for quitting.

The administrative law judge has considered all of the evidence and the contentions of the parties. It is concluded that Mr. Knight voluntarily quit without good cause attributable to the employer. Accordingly, benefits are denied. He has received benefits since filing his claim effective June 11, 2006. Based on the decision herein, the benefits received now constitute an overpayment and must be repaid. Iowa Code section 96.3(7).

DECISION:

The representative's decision dated June 30, 2006, reference 01, is hereby reversed. Mr. Knight voluntarily quit his employment for no 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 job insurance benefit amount, provided he satisfies all other conditions of eligibility. Mr. Knight has been overpaid \$1,944.00 in job insurance benefits.

cfc/cs