

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHRISTOPHER T MANNING

Claimant

APPEAL NO. 12A-UI-00702-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

PER MAR SECURITY & RESEARCH CORP

Employer

OC: 12/04/11

Claimant: Respondent (2R)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Per Mar Security & Research Corporation filed a timely appeal from an unemployment insurance decision dated January 10, 2012, reference 01, that allowed benefits to Christopher T. Manning. After due notice was issued, a telephone hearing was held February 17, 2012 with Human Resources Generalist Deanne Darnell participating for the employer. Mr. Manning did not respond to the hearing notice. The administrative law judge takes official notice of agency benefit payment records.

ISSUE:

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

FINDINGS OF FACT:

Christopher T. Manning was employed as a security officer by Per Mar Security & Research Corporation from June 21, 2011 until October 8, 2011. Mr. Manning lived in Bonaparte, Iowa while working for the company, commuting each day to Burlington. He notified his operations manager that he would be leaving his present position because he was moving from Bonaparte to Floris, Iowa. He asked if the company had any work for him in Ottumwa. It did not. The operations manager in Quincy, Illinois contacted the operations manager in Des Moines on Mr. Manning's behalf. The Des Moines operations manager told Mr. Manning to contact the operations manager in Cedar Rapids.

Mr. Manning has received unemployment insurance benefits since filing a claim effective December 4, 2011.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the claimant left employment with good cause attributable to the employer. He did 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 who resigns in order to move to a different locality leaves work without good cause attributable to the employer according to 871 IAC 24.25(2). The evidence in this record indicates that Mr. Manning left employment because he was moving farther away from his work location. Benefits must be withheld.

Iowa Code section 96.3-7, as amended in 2008, provides:

7. Recovery of overpayment of benefits.

a. 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.

b. (1) 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. However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment. The employer shall not be charged with the benefits.

(2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the department to represent any employers in unemployment insurance matters. This subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

The question of whether the claimant must repay the benefits he has received is remanded to the Unemployment Insurance Services Division.

DECISION:

The unemployment insurance decision dated January 10, 2012, reference 01, is reversed. Benefits are withheld until the claimant has worked in and has been paid wages for insured

work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The question of repayment of benefits is remanded.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

css/css