

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LARRY P RICE**  
Claimant

**APPEAL NO. 10A-UI-09422-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**NEIGHBORHOOD PATROL INC**  
Employer

**OC: 05/30/10**  
**Claimant: Respondent (2R)**

Section 96.5-1 – Voluntary Quit  
Section 96.3-7 – Benefit Overpayment

**STATEMENT OF THE CASE:**

Employer filed a timely appeal from a representative's decision dated June 30, 2010, reference 01, which held claimant eligible to receive unemployment insurance benefits based upon his separation from Neighborhood Patrol Inc. After due notice, a telephone hearing was held on August 18, 2010. Although duly notified, the claimant did not respond to the notice of hearing and did not participate. The employer participated by Mr. Dick Rodgerson, Human Resource Director.

**ISSUE:**

The issue in this matter is whether the claimant left employment with good cause attributable to the employer.

**FINDINGS OF FACT:**

The administrative law judge, having considered the evidence in the record, finds: Larry Rice was employed by Neighborhood Patrol Inc. as a full-time security officer from June 23, 2009 until April 26, 2010 when he voluntarily quit employment.

Mr. Rice had been scheduled to report for a meeting with his supervisor on April 26, 2010 to discuss the claimant's failure to report or to provide notification to the employer of an impending absence on April 25, 2010. The employer's intent was not to discharge Mr. Rice but only to issue him a counseling for his failure to provide notification. When informed of the mandatory meeting Mr. Rice quit his employment and did not report to the meeting or report to work thereafter. Work continued to be available to the claimant at the time that he chose to leave.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow the administrative law judge concludes that the claimant voluntarily left 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.

An individual who voluntarily leaves their employment must first give notice to the employer of the reason for quitting in order to give the employer an opportunity to address or resolve the complaint. Cobb v. Employment Appeal Board, 506 N.W.2d 445 (Iowa 1993).

The evidence in the record establishes that Mr. Rice was informed of a mandatory meeting and the reason for it. The claimant declined to report for the meeting and quit his job rather than complying with the employer's reasonable and work-related directive to report and discuss the reasons for his failure to provide notification for an absence the preceding day. The employer's directive was reasonable and work related. The claimant did not state any reason for not attending or request a postponement but instead quit without giving the employer any opportunity to resolve the issue about the scheduled meeting. The separation was therefore without good cause attributable to the employer. Benefits are denied.

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.

**DECISION:**

The representative's decision dated June 30, 2010, reference 01, is reversed. The claimant left employment without good cause attributable to the employer. The claimant is disqualified and benefits are withheld until he has worked in and earned wages in insured work equal to ten times his weekly benefit amount and meets all other eligibility requirements of Iowa law. The issue of whether the claimant must repay the unemployment benefits is remanded to the UIS Division for determination.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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