

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROBERT D HAGARTY
Claimant

APPEAL NO: 13A-UI-08049-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

GENEVA TOWER
Employer

OC: 06/09/13
Claimant: Respondent (2/R)

Iowa Code § 96.5(1) – Voluntary Quit

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's July 3, 2013 determination (reference 01) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant had been discharged for nondisqualifying reasons. The claimant participated in the hearing with his attorney Mark Liabo. Karen Bruess, Kim Gordon, Michael Donahue, Tom Suchomel and Nancy Mortensen appeared on the employer's behalf. During the hearing, Claimant Exhibits A through H and Employer Exhibits One and Two were offered and admitted as evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

ISSUE:

Did the claimant voluntarily quit his employment for reasons that qualify him to receive benefits or did the employer discharge him for reasons constituting work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer in June 2001. The claimant worked full time as the administrator of a 180 low income housing unit. As the result of a number of issues, the claimant informed the employer's board member on June 27 that he was resigning as of July 31, 2013. (Claimant Exhibit B.) The employer accepted the claimant's resignation and started looking for a management firm to take over his job duties. (Claimant Exhibits C, D,E, F and G.)

The claimant changed the effective date of his resignation because the employer had not secured a management firm by July 31. While the claimant planned to work until the end of the year, the employer wanted him to work until he could train the new management firm representative. The employer paid out the claimant's accrued vacation in August.

The employer decided to have Affordable Housing Network, Inc., manage the housing unit. In late August or early September 2012 the claimant became very upset when he received a separation agreement the employer asked him to sign. The claimant was so upset; his doctor restricted him from returning to work as of September 5, 2012. (Claimant Exhibit H.) The

claimant gave the work restriction to the employer at a September 5, 2012 board meeting. The employer considered the work restriction as the effective date of the claimant's resignation. Before the claimant gave the work restriction to the employer, the employer anticipated the claimant would work until September 30, 2012. The claimant had planned to work until December 31, 2012.

The claimant established a claim for benefits during the week of June 9, 2013.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer, or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §§ 96.5(1), (2)a. Since the claimant did not establish a claim for benefits until June 9, 2013, the evidence establishes that he quit and intended to quit by December 31, 2012. While the parties keyed in on what happened on September 5, this would only be relevant if the claimant had filed a claim between September 5 and December 31, 2012. The claimant admitted and acknowledged during the hearing that he intended to quit by December 31, 2012. If he filed an earlier claim, he may have been eligible to receive benefits prior to December 31, 2012. As of December 31, the claimant intended to quit.

Since the claimant quit, he has the burden to establish he quit for reasons that qualify him to receive benefits. Iowa Code § 96.6(2). The claimant established personal reasons for quitting, but he did not establish that he quit for reasons that qualify him to receive benefits. Therefore, as of June 9, 2013, the claimant is not qualified to receive benefits.

The issue of overpayment of benefits or whether the claimant will be required to pay back any overpayment of benefits he has received since June 9, 2013, will be remanded to the Claims Section to determine.

DECISION:

The representative's July 3, 2013 determination (reference 01) is reversed. The claimant voluntarily quit his employment for personal reasons, but did not establish that he quit for reasons that qualify him to receive benefits. As of June 9, 2013, the claimant is disqualified from receiving unemployment insurance benefits. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged. The issues of overpayment of benefits and whether the claimant will be required to pay back any overpayment of benefits is **Remanded** to the Claims Section to determine.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs