

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RICHARD R ACKERSON
Claimant

APPEAL NO. 12A-UI-06382-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BEACON OF HOPE MINISTRIES INC
Employer

OC: 04/22/12
Claimant: Respondent (2-R)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated May 24, 2012, reference 02, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on June 25, 2012. The parties were properly notified about the hearing. The claimant failed to participate in the hearing. Steve Roe participated in the hearing on behalf of the employer with a witness, Eric Howard.

ISSUE:

Did the claimant voluntarily quit employment without good cause attributable to the employer?

FINDINGS OF FACT:

The claimant worked as a morning supervisor for the employer from March 24, 2011, to April 6, 2012.

On April 6, 2012, the claimant had a meeting with the Director and Chaplin regarding complaints they had received that the claimant was borrowing money from residents and using drugs. When confronted about the allegations, the claimant said he could not be a hypocrite and could not continue to work there. He turned in his keys at that point and quit employment. No decision had been made to terminate the claimant at the point that he left employment.

The claimant filed for and received a total of \$1,074.00.00 in unemployment insurance benefits for the weeks between April 22 and June 2, 2012.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code § 96.5-1 and 96.5-2-a. The evidence establishes the claimant voluntarily quit employment because at the point he turned in his keys and left work, the employer had not made a decision yet about his employment status. No good cause attributable to the employer has been shown.

The unemployment insurance law requires benefits to be recovered from a claimant who receives benefits and is later determined to be ineligible for benefits, even though the claimant acted in good faith and was not otherwise at fault. But the overpayment will not be recovered when an initial determination to award benefits is reversed on appeal on an issue regarding the claimant's employment separation if: (1) the benefits were not received due to any fraud or willful misrepresentation by the claimant and (2) the employer did not participate in the initial proceeding to award benefits. The employer will not be charged for benefits whether or not the overpayment is recovered. Iowa Code § 96.3-7. In this case, the claimant has received benefits but was ineligible for those benefits. The matter of deciding the amount of the overpayment and whether the overpayment should be recovered under Iowa Code § 96.3-7-b is remanded to the Agency.

DECISION:

The unemployment insurance decision dated May 24, 2012, reference 02, is reversed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The matter of deciding the amount of the overpayment and whether the overpayment should be recovered under Iowa Code § 96.3-7-b is remanded to the Agency.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs