

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RUSSELL MCWILLIAMS
Claimant

APPEAL NO. 08A-UI-03685-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

MOSAIC
Employer

**OC: 03-16-08 R: 03
Claimant: Respondent (2)**

Section 96.5-1 – Voluntary Leaving
Section 96.3-7 – Recovery of Benefit Overpayment

STATEMENT OF THE CASE:

The employer filed a timely appeal from the April 7, 2008, reference 01, decision that allowed benefits to the claimant. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on April 30, 2008. The claimant participated in the hearing. Stephanie Gelhaar, Executive Director; Rhonda Wilcox, Associate Director; and Attorney Lynn Corbeil, participated in the hearing on behalf of the employer. Employer's Exhibits One through Five were admitted into evidence.

ISSUE:

The issue is whether the claimant voluntarily left his employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time property manager I for Mosaic from November 6, 1995 to March 17, 2008. On February 7, 2008, the employer held a budget meeting and the claimant was expected to secure bids for repairs as he had done in the past. The employer set a deadline of March 6, 2008, but the claimant missed that deadline as well as the second deadline of March 13, 2008 (Employer's Exhibit One). The claimant felt the employer was asking him to write the entire budget himself and he did not know how to do so and consequently did not perform the regular budget work of getting repair and replacement estimates he had been doing for 12 years. After the employer extended the deadline to March 13, 2008, and the claimant did not produce his portion of the budget the employer prepared a maintenance property costs sheet to assist him (Employer's Exhibit Five). The claimant did not express any concerns to the claimant about the budget process. On March 14, 2008, the employer spoke to the claimant and told him she needed the information that day and he provided some of the material requested. On March 16, 2008, the employer told the claimant she needed bids specific to the properties because the claimant had only received bids for materials for some projects. On March 17, 2008, the claimant went to the employer and said the job was stressful and he would not be able to meet the deadlines so he was going to voluntarily quit.

The claimant has claimed and received unemployment insurance benefits since his separation from this employer.

REASONING AND CONCLUSIONS OF LAW:

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

In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2. While the claimant believed the employer was asking him to complete the entire budget for the organization that was not the case and it appears there was a lack of communication between the parties. The claimant had worked for the employer for 12 years, however, and it is not clear why he believed the employer would suddenly make that request rather than have him perform the same budget duties he had always done. The claimant did not question the employer about the situation but instead quit without giving the employer a chance to clarify the situation. Under these circumstances the administrative law judge cannot conclude that the claimant's leaving was for good cause attributable to the employer as defined by Iowa law. Therefore, benefits are denied.

Iowa Code section 96.3-7 provides:

7. Recovery of overpayment of benefits. 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.

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.

Because the claimant's separation was disqualifying, benefits were paid to which the claimant was not entitled. Those benefits must be recovered in accordance with the provisions of Iowa law.

DECISION:

The April 7, 2008, reference 01, decision is reversed. The claimant voluntarily left his employment without 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 benefit amount, provided he is otherwise eligible. The claimant is overpaid benefits in the amount of \$694.00.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/css