

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

KOHMEE B PARRETT

Claimant

APPEAL NO. 14A-UI-11155-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WASHINGTON INVENTORY SERVICES INC

Employer

OC: 09/28/14

Claimant: Respondent (2-R)

Section 96.5-1 - Voluntary Quit
Section 96.3-7 - Overpayment of Benefits

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated October 17, 2014, reference 01, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on November 17, 2014. The parties were properly notified about the hearing. The claimant failed to participate in the hearing. Lucas Goderis participated in the hearing on behalf of the employer.

ISSUES:

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

Was the claimant overpaid unemployment insurance benefits?

FINDINGS OF FACT:

The claimant worked part time for the employer as an inventory associate from August 2012 to September 21, 2014.

On September 21, 2014, the claimant worked an assignment at Brighton Collectibles in Peoria, Illinois, then went to another assignment at Victoria Secret in Peru, Illinois. When he arrived, he decided that the assignment was short-staffed even though there were 14 employees there. He walked out of the assignment.

When the inventory manager, Lucas Goderis, found out that the claimant had walked off the assignment, he called the claimant. The claimant said he was not going to work short-handed. Goderis told the claimant that eight more employees would be arriving at the store, but the claimant was still dissatisfied. Goderis told the claimant that he could return to work at Victoria Secret, but if he did not do so, the employer would consider him to have voluntarily quit.

The claimant never returned to the job or reported to work after the telephone call with Goderis. He quit employment because he was upset about the staffing levels at the job. The staffing arrangement on the Victoria Secret job was not unusual and the job was not short-staffed.

The claimant filed a new claim for unemployment insurance benefits with an effective date of September 28, 2014. The claimant filed for and received a total of \$1116 in unemployment insurance benefits for the weeks between September 28 and November 8, 2014.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer. Iowa Code § 96.5-1. The claimant quit employment by not returning to the job on September 21 and not returning to work after September 21. His reasons for quitting do not show intolerable working conditions or other good cause attributable to the employer for quitting employment.

The unemployment insurance law generally requires benefits be recovered from a claimant who receives benefits and is later denied benefits even if the claimant acted in good faith and was not at fault. But a claimant is not required to repay an overpayment when an initial decision to award benefits on an employment-separation issue is reversed on appeal if two conditions are met: (1) the claimant did not receive the benefits due to fraud or willful misrepresentation, and (2) the employer failed to participate in the initial proceeding that awarded benefits. In addition, if a claimant is not required to repay an overpayment because the employer failed to participate in the initial proceeding, the employer's account will be charged for the overpaid benefits. Iowa Code § 96.3-7-a, -b.

The claimant received benefits but has been denied benefits as a result of this decision. The claimant, therefore, was overpaid \$1116.

The documents submitted for the fact-finding interview needs to be reviewed to decide if the employer participated in the interview. Since the documents were not sent to the parties, the issues of whether the employer participated in the fact-finding interview, whether the claimant is required to repay the overpayment, and whether the employer's account is subject to charge for the overpaid benefits are remanded to the Agency.

DECISION:

The unemployment insurance decision dated October 17, 2014, reference 01, 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 issues of whether the employer participated in the fact-finding interview, whether the claimant is required to repay the overpayment, and whether the employer's account is subject to charge for the overpaid benefits are remanded to the Agency.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

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