

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHRIS MASON
Claimant

APPEAL NO. 13A-UI-07303-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ENTELEE INC
Employer

OC: 05/19/13
Claimant: Respondent (2-R)

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

STATEMENT OF THE CASE:

Entegee, Inc. filed a timely appeal from a representative's decision dated June 10, 2013, reference 01, which held claimant eligible to receive unemployment insurance benefits. After due notice was provided, a telephone hearing was held on August 20, 2013. Claimant participated. The employer participated by Ms. Michelle Hawkins, Hearing Representative, and witnesses: Mr. Clint Albracht, Ms. Lori Reem, and Mr. Ken Heimendinger. Employer's Exhibits One and Two were received into evidence.

ISSUE:

The issue is whether the claimant left employment with good cause attributable to the employer and whether the claimant has been overpaid job insurance benefits.

FINDINGS OF FACT:

Chris Mason was employed by Entegee, Inc. from April 30, 2012 until May 13, 2013. Mr. Mason was assigned to work at the Monsanto company as a piping designer and was being paid by the hour. Mr. Mason was employed full time on the assignment. His immediate supervisor for the Entegee company was Mr. Clint Albracht. Mr. Mason reported to Willie Johnson at the Monsanto facility.

Mr. Mason left his employment with Entegee, Inc. after he failed to report for scheduled work and did not provide notification each day for three consecutive work days on Thursday, May 9; Friday, May 10; and Monday, May 13, 2013. Mr. Mason had previously expressed his intention to leave his employment and had requested his supervisor at Monsanto to "lay him off." The claimant was not laid off. On May 8, the claimant informed Ken Heimendinger, the account representative with Entegee, Inc., that he was going to look for a different job. Mr. Mason left the Monsanto facility that day and returned to the state of Illinois for a job interview. The claimant did not inform the supervisor in person at Monsanto and did not call in to report his impending absences on the next day, Thursday, May 9, or Friday, May 10 or Monday, May 13, 2013. Mr. Mason had returned to the Monsanto facility on Friday, May 10 and had removed his

tools at that time. Based upon the claimant's failure to report for scheduled work without authorization or notification to the client employer for three consecutive work days, the claimant was considered to have abandoned his job. After the claimant had not reported or provided notification on Monday, May 13, he was notified later in the day that his employment had ended for those reasons.

REASONING AND CONCLUSIONS OF LAW:

The first question before the administrative law judge is whether the claimant was discharged or whether Mr. Mason quit his employment. Based upon the evidence in the record, the administrative law judge concludes that Mr. Mason quit ongoing 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.

871 IAC 24.25(4) provides:

Voluntary quit without good cause. 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. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

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 working 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.

In this matter, Mr. Mason left his employment by failing to report for scheduled work at the client employer location for three consecutive work days without authorization or providing notice to the employer as required by company policy. In addition, the claimant had come and removed his tools and personal belongings, an act long associated with demonstrating an individual's intention to sever employment. While Mr. Mason's dissatisfaction with his pay or location of his employment may have provided him good personal reasons for leaving, they were not good

cause reasons that were attributable to the employer. Claimant was aware of the pay and the work location at the time that he accepted employment. For these reasons the administrative law judge concludes the claimant left employment without good cause attributable to the employer. Unemployment insurance benefits are withheld.

Because the claimant has been deemed ineligible for benefits, any benefits the claimant has received could constitute an overpayment. Accordingly, the administrative law judge will remand the matter to the Claims Division for determination as to whether there has been an overpayment, the amount of the overpayment and whether the claimant will have to repay the benefits.

DECISION:

The representative's decision dated June 10, 2013, reference 01, is reversed. Claimant left employment without good cause attributable to the employer. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount and is otherwise eligible. The overpayment issue is remanded to the Claims Section for investigation and determination.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs