

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CRAIG S MILLER
Claimant

APPEAL NO: 08A-UI-09189-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

AUTOMOTIVE ENTERPRISES COMPANY
Employer

OC: 07/20/08 R: 04
Claimant: Respondent (2/R)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Automotive Enterprises Company (employer) appealed a representative's October 1, 2008 decision (reference 02) that concluded Craig S. Miller (claimant) was qualified to receive benefits, and the employer's account was subject to charge because the claimant voluntarily quit his employment for reasons that qualify him to receive benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 27, 2008. The claimant failed to respond to the hearing notice by contacting the Appeals Section prior to the hearing and providing the phone number at which he could be contacted to participate in the hearing. As a result, no one represented the claimant. Michelle Freisinger, the office manager, appeared on the employer's behalf. Based on the evidence, the arguments of the employer, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit his employment for reasons that qualify him to receive benefits?

FINDINGS OF FACT:

The claimant started working for the employer on September 4, 2007. The claimant worked full time on second shift as a buffer. In early May, the employer eliminated second shift and transferred the claimant to work first shift. First shift started at 5:00 a.m.

The claimant had problems getting to work by 5:00 a.m. The employer gave the claimant a verbal warning for reporting to work late or not reporting to work at all after he started working first shift. As of May 21, 2008, the claimant's job was not in jeopardy. The claimant, however, stopped reporting to work after May 21, 2008. The claimant did not call or contact the employer after May 21, 2008.

The claimant established a claim for benefits during the week of July 20, 2008. After establishing his claim, the claimant has filed claims and received some benefits.

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. Iowa Code section 96.5-1. The evidence indicates the claimant voluntarily quit his employment sometime after May 21, 2008, when he abandoned his employment by failing to return to work. When a claimant quits, he has the burden to establish he quit for reasons that qualify him to receive benefits. Iowa Code section 96.6-2.

Since the claimant did not participate in the hearing, it is not known exactly why he did not report to work after May 21, 2008. As a result, the evidence does not establish that the claimant quit for reasons that qualify him to receive benefits. As of July 20, 2008, the claimant is not qualified to receive benefits.

Since the claimant has received benefits, the issues of overpayment and/or whether the claimant is eligible for a waiver of overpayment are remanded to the Claims Section.

DECISION:

The representative's October 1, 2008 decision (reference 02) is reversed. The claimant voluntarily quit his employment, but did not establish that he quit for reasons that qualify him to receive benefits. The claimant is disqualified from receiving unemployment insurance benefits as of July 20, 2008. 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 whether the claimant has been overpaid or is eligible for a waiver of any overpayment are remanded to the Claims Section to determine.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs