

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JAMES L MEEK**  
Claimant

**APPEAL NO. 11A-UI-10351-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TM1 STOP LLC**  
Employer

**OC: 01/09/11  
Claimant: Respondent (2-R)**

Section 96.5-1 - Voluntary Quit

**STATEMENT OF THE CASE:**

The employer appealed an unemployment insurance decision dated July 28, 2011, reference 04, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on August 30, 2011. The parties were properly notified about the hearing. The claimant participated in the hearing. Dennis Dorman participated in the hearing on behalf of the employer.

**ISSUE:**

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

**FINDINGS OF FACT:**

The claimant worked full-time for the employer as a telephone account manager from April 4, 2011. The claimant was informed and understood that under the employer's work rules, regular attendance was required and employees were required to notify the employer if they were not able to work as scheduled and would be considered to have voluntarily quit employment after three days of absence without notice to the employer.

The claimant was absent from work on June 15, 16, 17, 20, 21, 22, 23, and 24 without any notice to the employer. The claimant abandoned his job and never contacted the employer about returning to work.

The claimant has filed for and received unemployment insurance benefits since his separation on June 15, 2011.

**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 unemployment insurance rules state that a claimant absent for three days without giving notice to employer in violation of company rule is presumed to have quit employment without

good cause attributable to the employer. 871 IAC 24.25(4). The claimant failed to report to work or notify the employer about his absences. He quit and good cause for quitting has not 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 July 28, 2011, reference 04, 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.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/kjw