

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

CRAIG D TILLMAN
311 N MYRTLE ST #B
GLENWOOD IA 51534-1357

IOWA DEPT OF TRANSPORTATION
C/O TALK UC EXPRESS
PO BOX 283
ST LOUIS MO 63166-0283

AMENDED
Appeal Number: 06A-UI-02097-CT
OC: 01/15/06 R: 01
Claimant: Respondent (2)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5(1) – Voluntary Quit
Section 96.3(7) – Recovery of Overpayments

STATEMENT OF THE CASE:

Iowa Department of Transportation (DOT) filed an appeal from a representative's decision dated February 8, 2006, reference 01, which held that no disqualification would be imposed regarding Craig Tillman's separation from employment. After due notice was issued, a hearing was held by telephone on March 10, 2006. Mr. Tillman participated personally. The employer participated by Jim Bane, District Maintenance Manager, and Steve Mefford, District Operations Manager. The employer was represented by Thomas Morrissey of Talx UC Express. Exhibits One, Two, and Three were admitted on the employer's behalf.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Tillman was employed by DOT from May 22, 1972 until December 29, 2005. He was last employed as a full-time equipment operator. On December 15, 2005, he submitted his written resignation to Steve Mefford but did not cite a reason for leaving. He indicated in the written notice of termination completed later that he was leaving to retire. He indicated he had plans to go to work for Mills County Emergency Management. That job still has not materialized.

Mr. Tillman cited several reasons for his decision to quit the employment. He felt there was favoritism shown to two employees because they were not required to ride with him if they chose not to. At the time of separation, Mr. Tillman worked primarily on the sign truck. His job involved cleaning, changing, and altering signs as needed. He would be given assistance if it was necessary for traffic control. Whether he received assistance was sometimes dependent on whether the services of others were needed elsewhere. At least one employee was not required to ride with Mr. Tillman because he did not feel safe with Mr. Tillman's driving.

Mr. Tillman also felt there was discrimination at the workplace because some individuals did not like him. He also felt there were problems with communications. During the last several months of his employment, there was no supervisor on site. The acting supervisor was at the site approximately two times per week. Mr. Tillman had not filed any grievances concerning working conditions or treatment. Continue work would have been available if he had not quit.

Mr. Tillman has received job insurance benefits since filing his claim effective January 15, 2006.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Tillman was separated from employment for any disqualifying reason. An individual who voluntarily quits employment is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). During the hearing, Mr. Tillman cited several reasons for his decision to quit. However, there was no reason listed on the two week's notice he gave on December 15, 2005. The notice of termination form indicates that the separation was due to voluntary retirement. Mr. Tillman could have listed any number of reasons for quitting in the comment section of the form but did not do so. He told the employer at the time he completed the form that he was going to be working for a different entity, Mills County Emergency Management.

The reasons cited by Mr. Tillman during the hearing as the cause of his quit do not establish good cause attributable to the employer. His complaints seemed to center around the issue of whether he was provided assistance when it was needed. The administrative law judge is satisfied that the employer provided assistance when it was necessary and when it was available. The work had to be prioritized and the available manpower distributed to perform the work in order of priority.

Although Mr. Tillman alleged discrimination, there was no evidence to establish this contention to the satisfaction of the administrative law judge. The administrative law judge appreciates that there may have been communication problems due to the lack of an on-site manager. However, the evidence failed to establish that the communications problem was a detriment to

Mr. Tillman to the extent that it constituted good cause to quit. He described the work environment as a "hell hole." It is noteworthy that he never availed himself of the grievance procedure to address any work-related problems.

After considering all of the evidence and the contentions of the parties, the administrative law judge concludes that good cause attributable to the employer has not been established. Accordingly, benefits are denied. Mr. Tillman has received benefits since filing his claim. Based on the decision herein, the benefits received now constitute an overpayment and must be repaid. Iowa Code section 96.3(7). An overpayment in the amount of \$1,092.00 has already been assessed by Workforce Development on an unrelated issue. The remaining benefits received, \$320.00, now constitute an overpayment.

DECISION:

The representative's decision dated February 8, 2006, reference 01, is hereby reversed. Mr. Tillman voluntarily quit his employment with DOT for no 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 job insurance benefit amount, provided he satisfies all other conditions of eligibility. Mr. Tillman has been overpaid \$576.00 in job insurance benefits in addition to the overpayment previously assessed by Workforce Development.

cfc/tjc