

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DAVID A MUNIZ
Claimant

APPEAL NO: 08A-UI-07698-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

D H BLATTNER & SONS INC
Employer

**OC: 07/20/08 R: 02
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

David A. Muniz (claimant) appealed a representative's August 20, 2008 decision (reference 01) that concluded he was not qualified to receive benefits, and the account of D. H. Blattner & Sons, Inc. (employer) would not be charged because the claimant voluntarily; quit his employment for reasons that do not qualify him to receive benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 9, 2008. The claimant participated in the hearing. The employer failed to respond to the hearing notice by contacting the Appeals Section prior to the hearing and providing the phone number at which the employer's witness/representative could be contacted to participate in the hearing. As a result, no one represented the employer. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

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

FINDINGS OF FACT:

The claimant started working for the employer in April 2008. The claimant worked as a full-time equipment operator. The claimant had financial problems driving 52 miles to work while he lived in Mason City. The claimant decided he would change his address to Waterloo so he could receive the employer's per diem of \$50.00 a day.

The claimant made arrangements to stay with his brother in Waterloo. The claimant experienced personal issues with his girlfriend at the time. During the week days, the claimant stayed with his mother in Mason City. He stayed with his brother in Waterloo on the weekends.

In his attempt to qualify for the per diem, the claimant discovered he needed to submit paperwork that his supervisor, Steve Thomas, had to sign and complete. After submitting the requested paperwork, the claimant contacted the employer's office and understood a per diem check would be issued to him shortly.

On or about July 11, the employer told the claimant that before a per diem check was issued, office personnel required him to submit a receipt that he paid a gas or utility bill in Waterloo. Since the claimant only stayed with his brother, he did not have such a receipt. Although the claimant offered to provide the employer with a rental receipt, but the employer responded that a rental receipt was not acceptable. When the claimant learned he would not receive the \$50.00 per diem until he submitted additional paperwork, he concluded the employer was not treating him fairly.

About this same time, the claimant had been offered another job in Mason City. His employment was subject to passing a drug test and a background check. The claimant's background check did not meet the new employer's criteria and the claimant was not hired. The claimant did not continue to work for the employer in part because he thought he had another job lined up in Mason City.

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 claimant initiated his employment separation when he did not 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.

The claimant quit because the employer would not pay him \$50.00 per diem until the claimant gave the employer proof he had actually relocated to Waterloo. Asking for a gas or utility receipt in the claimant's name was not unreasonable. Even though the claimant may have had some relationship issues with his girlfriend, he could have stayed in Mason City during the weekend since he stayed in Mason City with his mother during the week days. The evidence does not establish that claimant relocated to Waterloo. The fact he stayed with his brother in Waterloo during the weekends does not establish that he relocated to Waterloo. The evidence suggests the claimant attempted to use the employer's relocation policy to obtain more money even though he did actually move to Waterloo. This is further supported by the fact the claimant looked for job in Mason City, stayed in Mason City during the week and still resides in Mason City.

The claimant also quit in part because he assumed he had another job in Mason City. Unfortunately, the claimant did not meet the background check requirements and never performed services for another employer. As a result, the claimant does not meet the requirement of Iowa Code section 96.5-1-a - quitting for other employment.

The law presumes a claimant quits for reasons that do not qualify him to receive benefits when he leaves because he is not satisfied with his wages. 871 IAC 24.25(13). Ultimately, the claimant quit because the employer would not pay him additional money. This occurred when the claimant could not provide the documentation the employer requested to establish that the claimant had in fact relocated to Waterloo.

While the claimant had personal reasons for quitting, he did not establish he quit for reasons that qualify him to receive benefits. As of July 20, 2008, the claimant is not qualified to receive benefits.

DECISION:

The representative's August 20, 2008 decision (reference 01) is affirmed. The claimant voluntarily quit his employment for reasons that do not 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.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs