

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DAVID G KAKAVAS**  
Claimant

**APPEAL NO. 07A-UI-09410-HT**

**ADMINISTRATIVE LAW JUDGE  
AMENDED DECISION**

**ALUMINUM COMPANY OF AMERICA**  
Employer

**OC: 08/19/07 R: 04  
Claimant: Respondent (2)**

Section 96.5(1) – Quit  
Section 96.3(7) – Overpayment

**STATEMENT OF THE CASE:**

The employer, ALCOA, filed an appeal from a decision dated September 26, 2007, reference 01. The decision allowed benefits to the claimant, David Kakavas. After due notice was issued, a hearing was held by telephone conference call on October 22, 2007. The claimant participated on his own behalf. The employer participated by Industrial Relations Superintendent Ron Schneider and Plate Mill Area Manager Cheryl Lynn Foster.

**ISSUE:**

The issue is whether the claimant quit work with good cause attributable to the employer.

**FINDINGS OF FACT:**

David Kakavas was employed by ALCOA from February 20, 2006 until August 27, 2007, as a full-time general mechanic. On July 24, 2007, he was placed on a three-day suspension, later increased to 30 days. The document he signed specified his return to work date would be August 24, 2007.

The claimant called in sick on August 24, 2007, and on August 27, 2007, contacted Plate Mill Area Manager Cheryl Lynn Foster to say he was quitting. Mr. Kakavas had been prescribed medication for anxiety and post traumatic stress disorder around the time he was placed on suspension in July. He took a dose of the medication when he called in sick on August 24, 2007, and realized it made him “too relaxed” to safely work around the machines as his regular job duties required. He did not notify the employer of his condition prior to quitting and did not explore FMLA or short-term disability options before tendering his resignation by phone to Ms. Foster on August 27, 2007.

David Kakavas has received unemployment benefits since filing a claim with an effective date of August 19, 2007.

**REASONING AND CONCLUSIONS OF LAW:**

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.

The claimant quit because he did not feel he would be able to safely perform his work duties while taking his medication. His conditions were anxiety and post traumatic stress disorder, and he did not assert either of these were due to his work. He did not explore any options with the employer for a leave of absence of any type in order to either stabilize his medication or his condition. The record establishes the claimant did not have good cause attributable to the employer for quitting and he is disqualified.

Iowa Code section 96.3-7 provides:

7. Recovery of overpayment of benefits. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The claimant has received unemployment benefits to which he is not entitled. These must be recovered in accordance with the provisions of Iowa law.

**DECISION:**

The representative's decision of September 26, 2007, reference 01, is reversed. David Kakavas is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible. He is overpaid in the amount of \$2,105.00.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

bgh/kjw/css