

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

RAYMOND M BARTH
824 FOREST AVE
WATERLOO IA 50702 3247

MANPOWER INC OF CDR RPDS
1220 INDUSTRIAL AVE
HIAWATHA IA 52233 1155

Appeal Number: 06A-UI-01850-DWT
OC: 12/25/05 R: 03
Claimant: Appellant (2/R)

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

STATEMENT OF THE CASE:

Raymond M. Barth (claimant) appealed a representative's February 9, 2006 decision (reference 04) that concluded he was not qualified to receive unemployment insurance benefits and the account of Manpower Inc. of Cedar Rapids (employer) would not be charged because the claimant voluntarily quit his employment for reasons that do not qualify him to receive. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 16, 2006. The claimant was contacted for the hearing, but he did not answer his phone. A message was left for the claimant to contact the Appeals Section immediately. Deb Chamberlain, the risk-control manager, appeared on the employer's behalf. After the hearing had been closed and the employer had been excused, the claimant contacted the Appeal Section. The claimant made a request to reopen the hearing. Based on the claimant's request to reopen the hearing, the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Is there good cause to reopen the hearing?

Did the claimant voluntarily quit his assignment for reasons that qualify him to receive unemployment insurance benefits?

FINDINGS OF FACT:

The claimant started working for the employer's business clients on June 29, 2004. The claimant has only been assigned to work for one client, Traer Manufacturing. The claimant began working an assignment at Traer again on December 4, 2005. On December 6, 2005, the claimant informed the employer he was quitting this assignment because he had accepted another job. The employer had continuing work for the claimant to do at Traer's after December 6, 2005. In the past, the claimant has always completed his assignments. The evidence does not establish that the claimant had accepted another job.

The claimant responded to the hearing notice and provided a phone number in which to contact him for the March 16 hearing. The claimant's phone number was called. When the claimant did not answer the phone, a message was left for the claimant to contact the Appeals Section immediately. The claimant contacted the Appeals Section at 12:25 p.m.

The claimant did not hear his phone ring and was busy doing other things. By the time the claimant contacted the Appeals Section, the hearing had been closed and the employer had been excused. The claimant requested that the hearing be reopened.

REASONING AND CONCLUSIONS OF LAW:

If a party responds to a hearing notice after the record has been closed and the party who participated at the hearing is no longer on the line, the administrative law judge can only ask why the party responded late to the hearing notice. If the party establishes good cause for responding late, the hearing shall be reopened. The rule specifically states that failure to read or follow the instructions on the hearing notice does not constitute good cause to reopen the hearing. 871 IAC 26.14(7)(b) and (c).

The claimant became involved in some personal matters and did not hear the phone ring when he was called for the noon hearing. Even though the employer presented testimony, the claimant did not contact the Appeals Section when the employer presented testimony. By the time the claimant called to participate in the noon hearing, the employer had been excused and the hearing had been closed. Even though the claimant intended to participate in the hearing, he was not available at noon because he did not answer his phone. The claimant may have assumed the hearing was going to start late or he did not think about the hearing until 12:25 p.m. Under either scenario, the claimant did not establish good cause for failing to be available at noon and for failing to contact the Appeals Section before 12:25 p.m. The claimant's request to reopen the hearing is denied.

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer. Iowa Code §96.5-1. The claimant voluntarily quit his most recent job assignment. When a claimant quits, he has the burden to establish he quit with good cause attributable to the employer. Iowa Code §96.6-2.

Even though the claimant told the employer he quit because he had accepted another job, the evidence does not establish that the claimant had in fact accepted another job. If the claimant had accepted another job, he would be qualified to receive unemployment insurance benefits, and the employer's account would not be subject to charge. Iowa Code §96.5-1-a. In this case, the facts indicate the claimant quit for personal reasons. The facts do not establish that the claimant quit for reasons that qualify him to receive unemployment insurance benefits. As of December 4, 2005, the claimant is qualified to receive unemployment insurance benefits.

DECISION:

The claimant's request to reopen the hearing is denied. The representative's February 9, 2006 decision (reference 04) is affirmed. The claimant voluntarily quit his employment for reasons that do not qualify him to receive unemployment insurance benefits. The claimant is disqualified from receiving unemployment insurance benefits as of December 4, 2005. 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. Since the claimant had a previous benefit year, this case is remanded to Claims Section to determine if the claimant has been overpaid any benefits as of the week ending December 10, 2005.

dlw/tjc