

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TIMOTHY M FELLER**  
Claimant

**APPEAL NO. 07A-UI-05342-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**STREAM INTERNATIONAL INC**  
Employer

**OC: 04-22-07 R: 01  
Claimant: Respondent (2)**

Section 96.5-1 – Voluntary Leaving  
Iowa Code § 96.3(7) - Recovery of Benefit Overpayment

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the May 14, 2007, reference 01, decision that allowed benefits. After due notice was issued, a hearing was held on June 13, 2007. The claimant did not participate. The employer did participate through Jacqueline Kurtz, Human Resources Recruiter, Rachel Twinn, Team Manager and April Allen, Team Manager and Debbie Nelson, Human Resources Manager. Employer's Exhibit One was received.

**ISSUE:**

Did the claimant voluntarily quit his employment with good cause attributable to the employer?

Has the claimant been overpaid any unemployment insurance benefits?

**FINDINGS OF FACT:**

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: Claimant was employed as a customer service representative full time beginning November 6, 2006 through April 3, 2007 when he voluntarily quit.

The claimant was disciplined for using profanity and for insubordination as a result of a disagreement he had with Rachel Twinn, a Team Leader. When speaking with Debbie Nelson, Human Resources Manager on April 3, 2007 the claimant admitted that his demotion was justified because of his conduct on March 31, 2007. The claimant demanded that Ms. Nelson tell him that Ms. Twinn would be demoted also. Ms. Nelson refused to tell the claimant what if any discipline would be imposed upon Ms. Twinn. When the claimant learned that he was not going to be privy to what, if any, discipline Ms. Twinn was going to be given, he voluntarily quit his employment. The claimant's written resignation makes clear that he was quitting because he did not like the way the employer was disciplining other employees.

Claimant has received unemployment benefits since filing a claim with an effective date of April 22, 2007.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment without good cause attributable to the employer.

Iowa Code § 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.

871 IAC 24.25(28) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code § 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code § 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(28) The claimant left after being reprimanded.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). An individual who voluntarily leaves their employment must first give notice to the employer of the reasons for quitting in order to give the employer an opportunity to address or resolve the complaint. *Cobb v. Employment Appeal Bd.*, 506 N.W.2d 445 (Iowa 1993).

The claimant quit because he wanted another employee to be disciplined and he wanted to know what discipline, if any, was being imposed upon a coworker. The claimant was not entitled to know what, if any, discipline was imposed upon another employee. The claimant's quitting because he was not provided with information or because other employees were not disciplined in a way he agreed with, is not a good cause reason attributable to the employer for leaving the employment. Benefits are denied.

Iowa Code § 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.

Because claimant's separation was disqualifying, benefits were paid to which claimant was not entitled. Those benefits must be recovered in accordance with the provisions of Iowa law.

**DECISION:**

The May 14, 2007, reference 01, decision is reversed. The claimant voluntarily left his employment without 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 benefit amount, provided he is otherwise eligible. Claimant is overpaid benefits in the amount of \$250.00.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

tkh/pjs