

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

THOMAS J SMOCK
Claimant

APPEAL NO. 06A-UI-11224-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TARGET CORPORATION
Employer

**OC: 10/01/06 R: 04
Claimant: Respondent (2)**

Section 96.5-1 – Voluntary Quit
Section 96.3-7 – Overpayment of Benefits

STATEMENT OF THE CASE:

The employer filed a timely appeal from the November 9, 2006, reference 02, decision that allowed benefits. After due notice was issued, a telephone conference hearing was held on December 11, 2006. The claimant did not participate. The employer participated through Jill Enyart and Amy Swinbank.

ISSUE:

The issue is whether the claimant quit for any good cause attributable to the employer and whether the claimant is overpaid unemployment insurance benefits.

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: The claimant was employed as a nighttime stocker for this stocker from April 4, 2006, until September 26, 2006, when he was removed from employment for failure to report or notify for three or more consecutive workdays. Mr. Smock reported that he would be absent on October 10, 2006, however, the claimant did not report back or call the employer.

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 administrative law judge concludes that the claimant voluntarily left the employment. The claimant did not report back or notify the employer for three or more consecutive workdays after September 10, 2006, and was aware that under company policy he would thus be separated for attendance violations. Mr. Smock abandoned his job, providing no reason to the employer.

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 administrative law judge holds the claimant is overpaid unemployment insurance benefits in the amount of \$522.00, pursuant to Iowa Code section 96.3-7, because a decision has rendered the claimant ineligible to receive benefits due to a voluntary quit without good cause.

DECISION:

The decision of the representative dated November 9, 2006, reference 02, is reversed. Unemployment insurance benefits shall be withheld until the claimant has worked in and been paid wages for insured work equal to ten times the claimant's weekly benefit amount, provided the claimant is otherwise eligible. The claimant is overpaid unemployment insurance benefits in the amount of \$522.00.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

kjw/css