

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JEFFREY ROSS**

Claimant

**APPEAL NO: 06A-UI-08854-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**APAC CUSTOMER SERVICES INC**

Employer

**OC: 07/30/06 R: 04  
Claimant: Respondent (2)**

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

**STATEMENT OF THE CASE:**

The employer appealed an unemployment insurance decision dated August 21, 2006, reference 01, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on September 19, 2006. The parties were properly notified about the hearing. The claimant failed to participate in the hearing. Turkessa Hill participated in the hearing on behalf of the employer.

**ISSUES:**

Did the claimant voluntarily quit employment without good cause attributable to the employer?

Was he overpaid unemployment insurance benefits?

**FINDINGS OF FACT:**

The claimant worked full-time for the employer as a customer service representative from September 2005 to July 2, 2006. The claimant was informed and understood that under the employer's work rules, employees were required to notify the employer if they were not able to work as scheduled and would be considered to have quit after three days of absence without notice to the employer.

After July 2, 2006, the claimant was absent without notice to the employer. He never contacted the employer again regarding his employment and was considered to have quit his employment.

The claimant filed for and received a total of \$885.00 in unemployment insurance benefits for the weeks between July 30 and September 16, 2006.

## REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant voluntarily quit employment without good cause attributable to the employer.

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.

871 IAC 24.25(4) 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 section 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 section 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:

- (4) The claimant was absent for three days without giving notice to employer in violation of company rule.

The claimant was absent without notice for more than three consecutive work days and then never returned to work. He voluntarily quit employment without good cause attributable to the employer.

The next issue in this case is whether the claimant was overpaid unemployment insurance benefits.

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.

As a result of this decision, the claimant is disqualified from receiving unemployment insurance benefits and was overpaid \$885.00 in benefits for the weeks between July 30 and September 16, 2006.

**DECISION:**

The unemployment insurance decision dated August 21, 2006, reference 01, is reversed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The claimant was overpaid \$885.00 in unemployment insurance benefits, which must be repaid.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/cs