

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**PHILLIP M HOHN**  
Claimant

**APPEAL NO. 13A-UI-02873-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**DOLGENCORP LLC**  
Employer

**OC: 02/03/13**  
**Claimant: Respondent (2-R)**

Section 96.5(1) – Quit

**STATEMENT OF THE CASE:**

The employer, Dolgencorp, filed an appeal from a decision dated March 1, 2013, reference 01. The decision allowed benefits to the claimant, Phillip Hohn. After due notice was issued, a hearing was held by telephone conference call on April 9, 2013. The claimant did not provide a telephone number where he could be contacted and did not participate. The employer participated by Store Manager Ahmed Oli.

**ISSUE:**

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

**FINDINGS OF FACT:**

Phillip Hohn was employed by Dolgencorp until January 18, 2013 as a full-time key holder. He was scheduled to work at 10:30 a.m. on January 18, 2013, but came in early at 9:45 a.m. to talk with Store Manager Ahmed Oli. Mr. Hohn announced he was not able to work that day because he had discovered problems with his apartment it would take him about three days to resolve. Mr. Oli denied him authorization to be gone that day because he had not given at least four hours' notice he would be gone as required. Mr. Hohn tried to get a leave of absence by calling the FMLA hotline but was denied because he had not worked for the employer long enough and this did not appear to be a medical situation.

Finally Mr. Hohn said he would work that day and went out on the floor. Shortly afterward he came back and gave his key to Mr. Oli saying he was quitting.

Phillip Hohn has received unemployment benefits since filing a claim with an effective date of February 3, 2013.

**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 record establishes the claimant quit because he refused to work while trying to resolve his personal problems. The above Code section requires there to be good cause attributable to the employer, and whatever personal problems Mr. Hohn had with his apartment, there is no evidence it was caused by or due to the employer.

Iowa Code section 96.3-7, as amended in 2008, provides:

7. Recovery of overpayment of benefits.

a. 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.

b. (1) 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. However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment. The employer shall not be charged with the benefits.

(2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the department to represent any employers in unemployment insurance matters. This subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

The claimant has received unemployment benefits to which he is not entitled. The question of whether the claimant must repay these benefits is remanded to the UIS division.

**DECISION:**

The representative's decision of March 1, 2013, reference 01, is reversed. Phillip Hohn is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount in insured work, provided he is otherwise eligible. The issue of whether the claimant must repay the unemployment benefits is remanded to UIS division for determination.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

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