

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

ROBERT L DUNN  
3124 W 3<sup>RD</sup> ST  
DAVENPORT IA 52804

ILLINOIS ARMORED CAR CORPORATION  
ATTN: HUMAN RESOURCES  
2001 W CERMAC RD  
BROAD VIEW IL 60153

Appeal Number: 05O-UI-02422-S2T  
OC: 12/19/04 R: 04  
Claimant: Respondent (2)

**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, 4<sup>th</sup> 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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

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

STATEMENT OF THE CASE:

Illinois Armoured Car Corporation (employer) appealed a representative's January 7, 2005 decision (reference 01) that concluded Robert Dunn (claimant) was eligible to receive unemployment insurance benefits. A hearing was held on March 28, 2005, following due notice pursuant to Remand Order of the Employment Appeal Board dated March 7, 2005. The claimant participated personally. He offered one witness, David McIntosh a former co-worker. The employer did not provide a telephone number where it could be reached and, therefore, did not participate.

#### FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired in October 2002, as a part-time driver/courier. The claimant quit after having been reprimanded on October 5, 2004, by Mr. Holmer. The claimant was angry about the manner in which Mr. Holmer reprimanded him. The claimant said "I don't need this anymore," and walked off the job. The claimant quit work because Mr. Holmer's manner of reprimanding was intolerable to the claimant. Continued work was available had the claimant not resigned.

#### REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant voluntarily quit without good cause attributable to the employer. For the following reasons the administrative law judge concludes he did.

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 24.26(4) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(4) The claimant left due to intolerable or detrimental working conditions.

The law presumes a claimant has left employment with good cause when he quits because of intolerable or detrimental working conditions. 871 IAC 24.26(4). In order to show good cause for leaving employment based on intolerable or detrimental working conditions, an employee is required to take the reasonable step of informing the employer about the conditions the employee believes are intolerable or detrimental and that he intends to quit employment unless the conditions are corrected. The employer must be allowed a chance to correct those conditions before the employee takes the drastic step of quitting employment. Cobb v. Employment Appeal Board, 506 N.W.2d 445 (Iowa 1993). The claimant did not inform the employer of the working conditions and that he intended to quit if the conditions were not corrected. Due to the claimant's failure to give the employer notice, there cannot be a finding that he left work with good cause attributable to the employer and, therefore, the claimant is not eligible to receive 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.

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 claimant has received benefits in the amount of \$635.00 since filing his claim herein. Pursuant to this decision, those benefits now constitute an overpayment, which must be repaid. This overpayment was previously addressed in 05A-UI-00544-H2T

**DECISION:**

The representative's January 7, 2005 decision (reference 01) is reversed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount provided he is otherwise eligible. The claimant is overpaid benefits in the amount of \$635.00. This overpayment was previously addressed in 05A-UI-00544-H2T

bas/kjf