

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DARRELL APPELATE**  
Claimant

**APPEAL NO. 07A-UI-04205-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MARJAN MANAGEMENT SERVICE LTD**  
Employer

**OC: 03-11-07 R: 03  
Claimant: Respondent (2)**

Section 96.5-1 – Voluntary Leaving  
Section 96.3-7 – Recovery of Benefit Overpayment

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the April 19, 2007, reference 04, decision that allowed benefits to the claimant. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on June 11, 2007. The claimant participated in the hearing. Cindy Walter, Human Resources Manager and Mark Tague, Owner, participated in the hearing on behalf of the employer.

**ISSUE:**

The issue is whether the claimant voluntarily left his employment with good cause attributable to the employer.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time food service supervisor for Marjan Management Service from October 31, 2006 to March 2, 2007. On February 28, March 1 and March 2, 2007, the claimant was a no-call/no-show. He testified he went out of town because he was having trouble with the charge nurse making fun of him and could not take the stress at work and in his personal life. The employer tried to call him March 2, 2007, but his roommate stated the claimant did not want to talk to the employer. The employer told the roommate if it did not hear from the claimant it was going to call the police because it was concerned about his well-being and consequently the claimant called the employer around 3:30 p.m. The employer told him it wanted him to return to his job and the claimant said he would have to think about it and the employer stated it needed to know right away and the claimant said maybe it would be better if he did not return and the employer said "maybe so." The employer did not have any indication the claimant was dissatisfied or considering leaving his position and the claimant's physician did not tell him he needed to quit his job. The claimant was aware of the employer's policy regarding no-call/no-shows because as a supervisor he had dismissed six employees for that reason.

The claimant has claimed and received unemployment insurance benefits since his separation from this employer.

**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 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.

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. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2. While the claimant was experiencing stress in his personal and work life, he chose to leave his job by failing to call or show up for work for three days in violation of the employer's policy. He did not have a doctor's note excusing him from work or stating that he needed to quit his job due to stress and when the employer offered to let him return to his position the claimant told the employer he would have to think about it rather than accepting their offer. Under these circumstances the administrative law judge cannot conclude that the claimant's leaving was for good cause attributable to the employer as defined by Iowa law. Therefore, benefits are denied.

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.

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

**DECISION:**

The April 19, 2007, reference 04, 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. The claimant is overpaid benefits in the amount of \$1,814.00.

---

Julie Elder  
Administrative Law Judge

---

Decision Dated and Mailed

je/css