

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHAD R KLEVE

Claimant

APPEAL NO. 07A-UI-05005-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MASON CITY BUSINESS SYSTEMS INC

Employer

**OC: 04/15/07 R: 02
Claimant: Respondent (2)**

Section 96.5(1) – Quit
Section 96.3(7) – Overpayment

STATEMENT OF THE CASE:

The employer, Mason City Business Systems (MCBS), filed an appeal from a decision dated May 4, 2007, reference 01. The decision allowed benefits to the claimant, Chad Kleve. After due notice was issued a hearing was held by telephone conference call on June 11, 2007. The claimant participated on his own behalf and with witnesses Marvin Popp and Wayne LaFrenz. The employer participated by Operations Manager Mark Flickinger.

ISSUE:

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

FINDINGS OF FACT:

Chad Kleve was employed by MCBS from June 15, 1999 until January 9, 2007 as a full-time sales representative and computer technician. On December 26, 2006, the claimant submitted a written resignation to members of management, indicating his last day of work would be January 9, 2007. He did not specify a reason.

Operations Manager Mark Flickinger and President Allen Behning talked to the claimant after he submitted his resignation and that was the first time he brought to their attention that he was unhappy with his manager Dave Strohman. Prior to that Mr. Kleve had “mentioned” to Mr. Behning that he did not like Mr. Strohman’s “strong arm management” style but did not make any specific complaint or request for action on the part of the employer, but simply expected him to “do something about it.”

The employer has a specific “harassment officer,” Laura Behning. Mr. Kleve did not go to her to discuss any of his concerns nor did he take advantage of the open door policy with other members of management. His explanation for his failure to do this was that Mr. Strohman had forbidden him to talk to other management but from the claimant’s testimony, this appears to be a stricture on discussing the status of contracts and other sales department matters rather than a blanket prohibition which would include personnel matters.

The employer acknowledged he knew that the sales people felt Mr. Strohman was “tough” but that was why he had been hired. In a highly competitive business it was felt necessary by MCBS to bring the sales staff up to quota, to make sure they met their obligations, worked their scheduled hours and to hold them accountable for their conduct, which had not always been the case with prior managers.

On December 22, 2006, Mr. Kleve was on his way to a customer’s location when he received a call from Mr. Strohman. The manager insisted the claimant come to his office in Cedar Rapids to review a contract and sign it. Mr. Kleve felt the customer was more important and he was not going to come to Cedar Rapids “to be yelled at.” There ensued some acrimonious conversation when Mr. Strohman asked the claimant if he was quitting and the claimant said he was and the manager insisted a resignation be on his desk by the end of the day and was told it would be submitted the next week.

Later Mr. Strohman called and apologized but the claimant considered the problem during the weekend and submitted his resignation. In subsequent discussions with the management Mr. Kleve also indicated one of his reasons for leaving was to establish his own business and he has formed a “network solutions” company, although it is not in the active stages until his period of non-competition expires.

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.

871 IAC 24.25(22) 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:

(22) The claimant left because of a personality conflict with the supervisor.

The claimant’s main reason for quitting was his disagreement with his manager about how the business should be conducted and what the priorities were. Whatever his more specific disagreements were he never notified the employer except to complain generally about “strong arm” management style, leaving it to the employer to decide what, if anything, should be done. The claimant did not bring any complaints to the harassment officer but elected not to be pro-active in having his concerns addressed. His decision to resign was precipitated by a disagreement with the manager as to whether the customer or the contract took priority. Under the provisions of the above Administrative Code section this does not constitute good cause attributable to the employer and the claimant is disqualified.

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 unemployment benefits to which he is not entitled. These must be recovered in accordance with the provisions of Iowa law.

DECISION:

The representative's decision of May 4, 2007, reference 01, is reversed. Chad Kleve is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible. He is overpaid in the amount of \$3,280.00.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs