

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ANDY WILLIAMS**

Claimant

**APPEAL NO: 06A-UI-10773-BT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TERRY FRAZER'S RV CENTER INC**

Employer

**OC: 10/01/06 R: 04  
Claimant: Respondent (2)**

Section 96.5-1 – Voluntary Quit

Section 96.3-7 – Overpayment

**STATEMENT OF THE CASE:**

Terry Frazer's RV Center, Inc. (employer) appealed an unemployment insurance decision dated November 1, 2006, reference 01, which held that Andy Williams (claimant) was eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 20, 2006. The claimant participated in the hearing. The employer participated through owner Terry Frazer; Pam Poll, General Manager; Bill Fowler, Prep Manager; and Doug Halstead, Prep Technician. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits.

**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 employed as a full-time prep technician from July 5, 2006 through October 5, 2006 when he voluntarily quit. During the entire length of his employment, the claimant never worked less than a 40-hour week except for the last week of his employment because he chose not to finish out the week. On October 3, 2006, the claimant's supervisor went to talk with him about his argumentative behavior and inability to get along with others. Any time the employer gave the claimant constructive criticism, the claimant became angry and started to argue. The other employees complained and did not want to work with the claimant because he was difficult to be around. When the supervisor spoke to the claimant, he told the supervisor that he had seen this coming and already had a job lined up with a hotel. He told his supervisor that his last day of work would be Friday, October 6, 2006. The claimant then asked his supervisor if he could work part-time while he worked at the hotel and the supervisor said he needed to talk to the owner. The supervisor spoke with the owner who confirmed there were no part-time jobs available. The supervisor relayed this information on to the claimant who did not report back to work after October 5, 2006. The employer was not

going to discharge the claimant and there was continuing work available. In fact, the employer had to hire three new full-time employees after the claimant quit.

The claimant filed a claim for unemployment insurance benefits effective October 1, 2006 and has received benefits after the separation from employment.

**REASONING AND CONCLUSIONS OF LAW:**

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits. He is not qualified to receive unemployment insurance benefits if he voluntarily quit without good cause attributable to the employer. Iowa Code section 96.5-1.

The claimant contends he was laid off for lack of work by his supervisor, but the facts demonstrate otherwise. Firstly, the supervisor did not have authority to lay off employees. Secondly, the employer had an ample amount of work and had to hire three employees after the claimant left. In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980) and Peck v. Employment Appeal Bd., 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant demonstrated his intent to quit by telling his supervisor that Friday, October 6, 2006 would be his last day because he had a job lined up with a hotel. He carried out that intent when he failed to return to work after October 5, 2006.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify him. Iowa Code section 96.6-2. He has not satisfied that burden and 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 unemployment insurance decision dated November 1, 2006, 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 \$1,017.00.

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Susan D. Ackerman  
Administrative Law Judge

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Decision Dated and Mailed

sda/pjs