

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MICHAEL A BALLARD
Claimant

APPEAL NO. 13A-UI-00416-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

QPS EMPLOYMENT GROUP INC
Employer

OC: 11/11/12
Claimant: Respondent (2-R)

Section 96.5-1 - Voluntary Quit
Section 96.3-7 - Overpayment of Benefits

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated January 3, 2013, reference 01, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on February 12, 2013. The parties were properly notified about the hearing. The claimant participated in the hearing. Rhonda Hefter participated in the hearing on behalf of the employer with a witness, Marcey Porterfield.

ISSUES:

Did the claimant voluntarily quit employment without good cause attributable to the employer?
Was the claimant overpaid unemployment insurance benefits?

FINDINGS OF FACT:

The employer is a staffing company that provides workers to client businesses on a temporary or indefinite basis. The claimant worked for the employer from February 13, 2012, to October 22, 2012.

The claimant worked on an assignment as an ejection-mold machine operator for Aeron Manufacturing from February 13 to July 18, 2012. The claimant requested a different assignment because he found the operator job at Aeron Manufacturing to be mind-numbing. The claimant was considered an excellent employee so he was allowed to move to an assignment with Serta Company where he worked full time from July 19 to September 28, 2012.

The claimant finished the assignment at Serta on September 28, 2012. He was told at that time that Serta would be bringing temporary employees back soon, but by October 15, Serta had not brought any employees back.

The claimant accepted a full-time assignment paying \$7.35 per hour as machine operator for Aeron Manufacturing again starting October 15 because the employer had no other work for him. When he accepted the assignment, he told the employer's branch manager that he did not know how long he would be able to work there because he found the job mind-numbing.

He worked at Aeron Manufacturing again from October 15 to 22, 2012. After October 22, he informed the branch manager that he was leaving that assignment. There was continuing full-time work available for the claimant when he decided to leave that assignment.

The claimant filed a new claim for unemployment insurance benefits effective November 11, 2012. After filing for unemployment insurance benefits, the employer offered the claimant part-time on-call work in a food service position, which the claimant accepted.

The claimant filed for and received a total of \$1,983.00 in unemployment insurance benefits for the weeks between November 11, 2012, and March 9, 2013.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code § 96.5-1 and 96.5-2-a. When a claimant quits a work assignment to become unemployed, the separation must be treated as voluntary quit.

The evidence fails to show that working conditions were intolerable in this case. The claimant knew what the job was involved yet accepted the assignment for a second time. At most, the claimant voluntarily left the assignment because of dissatisfaction with his work environment, which the rule deems to be without good cause attributable to the employer. 871 IAC 24.25(21).

The unemployment insurance law requires benefits to be recovered from a claimant who receives benefits and is later determined to be ineligible for benefits, even though the claimant acted in good faith and was not otherwise at fault. But the overpayment will not be recovered when an initial determination to award benefits is reversed on appeal on an issue regarding the claimant's employment separation if: (1) the benefits were not received due to any fraud or willful misrepresentation by the claimant and (2) the employer did not participate in the initial proceeding to award benefits. The employer will not be charged for benefits whether or not the overpayment is recovered. Iowa Code § 96.3-7. In this case, the claimant has received benefits but was ineligible for those benefits. The matter of deciding the amount of the overpayment and whether the overpayment should be recovered under Iowa Code § 96.3-7-b is remanded to the Agency.

DECISION:

The unemployment insurance decision dated January 3, 2013, reference 01, is reversed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid

wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The matter of deciding the amount of the overpayment and whether the overpayment should be recovered under Iowa Code § 96.3-7-b is remanded to the Agency.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/tll