

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TODD TREASE**  
Claimant

**APPEAL NO. 09A-UI-14624-VST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TPI IOWA LLC**  
Employer

**Original Claim: 08/30/09  
Claimant: Respondent (2-R)**

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

**STATEMENT OF THE CASE:**

The employer filed an appeal from a representative's decision dated September 28, 2009, reference 01, which held the claimant eligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on October 27, 2009. The claimant participated. The employer participated by Terri Rock, human resources manager. The record consists of the testimony of Todd Trease and the testimony of Terri Rock.

**ISSUES:**

Whether the claimant voluntarily left for good cause attributable to the employer; and

Whether there has been an overpayment of unemployment insurance benefits.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The employer manufactures blades for wind generators. The claimant was hired as a finisher on November 3, 2008. He was a full-time employee. When the claimant started working for the employer, he worked four days a week, ten hours a day. The claimant also had a real estate business, and working four days a week allowed him to devote time to selling real estate.

The claimant quit his job on July 27, 2009. Several factors contributed to his decision to resign. He was stressed and not happy with the work environment. The factory had switched from four work days to five work days. The number of hours remained the same, but instead of ten hours four times a week, the claimant now worked eight hours per day five times a week. He also had had some heated disagreements with one of the managers. He was also concerned over mandatory overtime that might require him to work every other Saturday. The claimant decided that the best decision for him was to concentrate on his real estate business.

## 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(21) 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:

(21) The claimant left because of dissatisfaction with the work environment.

A quit is a separation initiated by the employee. 871 IAC 24.1(113)(b). In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

The evidence in this case established that the claimant intended to sever the employment relationship and did so by telling the human resources manager, Terri Rock, that he was quitting. The issue is whether the claimant voluntarily left for good cause attributable to the employer. The claimant testified that he left because he was not happy and that the workplace was stressful. There were several reasons that the claimant was unhappy, including a switch in his work schedule from four days to five days. The administrative law judge concludes that this switch was not a substantial change in the contract of hire. The claimant had a real estate business and he wanted time to devote to that business. The claimant did not like this factory environment. He testified that this situation "wasn't for me."

Although the claimant may have had compelling personal reasons to quit his job, Iowa law states that dissatisfaction with the work environment does not constitute good cause attributable to the employer. Benefits are denied.

Iowa Code section 96.3-7, as amended in 2008, provides:

7. Recovery of overpayment of benefits.

a. 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.

b. (1) 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. However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment. The employer shall not be charged with the benefits.

(2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the department to represent any employers in unemployment insurance matters. This subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

Since the claimant has received benefits on his current claim, the overpayment issue is remanded for determination to the Claims Division.

**DECISION:**

The representative's decision dated September 28, 2009, reference 01, is reversed. Unemployment insurance benefits shall be withheld until the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. This matter is remanded to the Claims Division for determination of any overpayment.

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Vicki L. Seeck  
Administrative Law Judge

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Decision Dated and Mailed

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