

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DUCK BAKEY
Claimant

APPEAL NO: 08A-UI-10494-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

PER MAR SECURITY & RESEARCH CORP
Employer

OC: 08/24/08 R: 04
Claimant: Respondent (2/R)

Iowa Code § 96.5-1 - Voluntary Quit
Iowa Code § 96.3-7 - Overpayment

STATEMENT OF THE CASE:

Per Mar Security & Research Corporation (employer) appealed an unemployment insurance decision dated October 29, 2008, reference 01, which held that Duck Bakey (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 24, 2008. The claimant participated in the hearing. The employer participated through Gretchen Goettig, Human Resources and Payroll. 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 security guard from March 13, 2006 through August 11, 2008 when he walked off the job 45 minutes after starting his shift. He did not tell the employer he quit but had the employer's client tell the employer he quit. The claimant quit for six reasons. He quit because he felt the field supervisor inspected him more than necessary and did not inspect the other employees. However, he never failed an inspection. His second reason for quitting was because another guard complained about him because he wrote out a list of the duties that guard did not perform during his shift. The employer's client liked what the claimant did and she praised him. The third reason he quit is because of the rumors. The claimant talked to an employee from another company on behalf of the employer's client and everything got twisted around after that. His fourth reason to quit is because the other guards were hostile to him. He spoke greetings to another guard who did not respond. After that guard left, the claimant noticed he had not filled out any paperwork so he believed the guard and the employer falsified paperwork. The fifth reason for leaving is unethical management techniques. The claimant believed certain guards were allowed to leave

the building when they were supposed to be working. And the final reason the claimant quit is because an employee who had worked there for only three months was named supervisor. The claimant contends this guard was one of the ones leaving her shift while working. The claimant never mentioned his complaints prior to walking off the job.

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 § 96.5-1.

The claimant voluntarily quit on August 11, 2008 when he walked off the job without contacting his employer. He quit because of what he claimed to be intolerable working conditions. The issues that comprise the claimant's description of an intolerable or detrimental workplace when taken individually are presumed to be without good cause attributable to the employer. "Good cause" for leaving employment must be that which is reasonable to the average person, not to the overly sensitive individual or the claimant in particular. Uniweld Products v. Industrial Relations Commission, 277 So.2d 827 (Florida App. 1973). The evidence does not support the claim of intolerable working conditions.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. He has not satisfied that burden and benefits are denied.

Iowa Code § 96.3(7) provides that benefits must 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. The overpayment recovery law was updated in 2008. See Iowa Code § 96.3(7)(b). Under the revised law, a claimant will not be required to repay an overpayment of benefits if all of the following factors are met. First, the prior award of benefits must have been made in connection with a decision regarding the claimant's separation from a particular employment. Second, the claimant must not have engaged in fraud or willful misrepresentation to obtain the benefits or in connection with the Agency's initial decision to award benefits. Third, the employer must not have participated at the initial fact-finding proceeding that resulted in the initial decision to award benefits. If Workforce Development determines there has been an overpayment of benefits, the employer will not be charged for the benefits, regardless of whether the claimant is required to repay the benefits.

Because the claimant has been deemed ineligible for benefits, any benefits the claimant has received could constitute an overpayment. Accordingly, the administrative law judge will remand the matter to the Claims Division for determination of whether there has been an overpayment, the amount of the overpayment, and whether the claimant will have to repay the benefits.

DECISION:

The unemployment insurance decision dated October 29, 2008, 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 matter is remanded to the Claims Section for investigation and determination of the overpayment issue.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/pjs