

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JEREMIAH R GRISWOLD
Claimant

APPEAL NO: 14A-UI-12573-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TPI IOWA LLC
Employer

OC: 11/16/14
Claimant: Respondent (4)

Iowa Code § 96.5(1) – Voluntary Quit
Iowa Code § 96.3(7) – Overpayment of Benefits

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's December 3, 2014 determination (reference 01) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant voluntarily quit this employment for reasons that qualify him to receive benefits. The claimant participated at the January 5, 2015 hearing. Danielle Williams, a human resource coordinator, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits and the claimant has been overpaid benefits.

ISSUES:

Did the claimant voluntarily quit this employment for reasons that qualify him to receive benefits?

Has the claimant been overpaid benefits he received since November 16, 2014?

If the claimant has been overpaid is he required to pay back the overpayment of benefits or will the overpayment be charged to the employer's account?

FINDINGS OF FACT:

The employer hired the claimant to work full time in September 2013. The claimant initially worked as a final finisher. He did not get along with a co-worker and transferred to the paint department in July.

A co-worker in the paint department, A., threatened the claimant or least the claimant took A's comments as threats. The claimant talked to his team lead, J., about A's comments. J. talked to both the claimant and A. After talking to A., J. told the claimant to just ignore A. and his comments. A. made comments but did not physically harm the claimant.

On November 5, 2014, the claimant was chosen for another random drug test. He did not believe this right because he had been asked to take another earlier drug test a few weeks

earlier. On November 5, the claimant knew his drug screen had to be sent to a laboratory for further testing because the initial test came back as non-negative for marijuana.

The claimant did not return to work after November 5. While the claimant had received four attendance issues, the employer had no intention to discharge him on November 5. On November 8, the employer received information from the laboratory that the claimant's drug test result was negative.

On November 7, the claimant called and left the employer a message that he was quitting effective immediately. The claimant did not give any reasons for quitting.

The employer does not allow employees to threaten co-workers. If an employee threatens another employee, the employer should report this problem to a supervisor. If the supervisor does not resolve the issue, the employee is supposed to contact the human resource department. During his employment, the claimant did not report any threats to the human resource department. When Williams asked the claimant's supervisor if claimant had reported any problems during his employment, Williams understood the claimant had not reported any issues with any other employee.

The claimant established a claim for benefits during the week of November 16, 2014. He filed claims for the weeks ending November 22 through December 27, 2014. He received his maximum weekly benefit amount of \$360 for each of these weeks. The employer was not available when a claims specialist called the employer for the fact-finding interview.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer. Iowa Code § 96.5(1). When a claimant quits, he has the burden to establish he quit for reasons that qualify him to receive benefits. Iowa Code § 96.6(2).

The law presumes a claimant quits with good cause when he leaves because of intolerable or detrimental working conditions. 871 IAC 24.26(4). The law also presumes a claimant quits without good cause when he leaves because of dissatisfaction with the work environment. 871 IAC 24.25(21).

The claimant asserted he quit because a co-worker, A., continually got into his face and threatened him. If the claimant brought problems he had with A. to his supervisor's attention, the supervisor did not consider this complaint as egregious as the claimant claimed. This conclusion is made based on Williams' understanding the claimant had not made any complaints to his supervisor. If the situation was as bad as the claimant asserted, it is difficult to understand why he did not go to the human resource department when his immediate supervisor did not resolve the problem.

After learning his November 5 preliminary drug test had to be tested at a laboratory because the initial result were non-negative, it is difficult to understand why the claimant did not report to work on November 6. He gave no explanation why he did not work on November 6. On November 7, he told his supervisor he quit effective immediately, but gave no reason for quitting. The claimant's assertion that another employee threatened him is not supported by the evidence. The claimant's failure to report to the human resource department that an employee was threatening him and his supervisor told Williams the claimant had not reported any problem supports this conclusion. The claimant may have had personal reason for quitting, but he did

not establish that he quit for reasons that qualify him to receive benefits. As of November 16, 2014, the claimant is not qualified to receive.

If an individual receives benefits he is not legally entitled to receive, the Department shall recover the benefits even if the individual acted in good faith and is not at fault in receiving the overpayment. Iowa Code § 96.3(7). Based on this decision, the claimant is not legally entitled to receive benefits as of November 16, 2014. This means he has been overpaid \$2160 in benefits he received for the weeks ending November 22 through December 27, 2014.

The unemployment insurance law requires benefits be recovered from a claimant who receives benefits and is later denied benefits even if the claimant acted in good faith and was not at fault. However, a claimant will not have to repay an overpayment when an initial decision to award benefits on an employment separation issue is reversed on appeal if two conditions are met: (1) the claimant did not receive the benefits due to fraud or willful misrepresentation, and (2) the employer failed to participate in the initial proceeding that awarded benefits. In addition, if a claimant is not required to repay an overpayment because the employer failed to participate in the initial proceeding, the employer's account will be charged for the overpaid benefits. Iowa Code § 96.3(7)a, b.

The employer did not participate at the fact-finding interview. Since the employer did not satisfy the participation requirement of the law, the \$2160 overpayment will be charged to the employer's account. The claimant is not required to repay \$2160 overpayment.

DECISION:

The representative's December 3, 2014 determination (reference 01) is modified in the employer's favor. The claimant voluntarily quit this employment for reasons that do not qualify him to receive benefits. As of November 16, 2014, the claimant is disqualified from receiving unemployment insurance benefits. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible.

The claimant has been overpaid \$2160 in benefits he received for the weeks ending November 22 through December 27, 2014. The claimant is not required to pay back any of the overpayment. Instead, the \$2160 overpayment will be charged to the employer's account because the employer did not participate at the fact-finding interview.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css