

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

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Appeal Number: 06A-UI-04898-SWT
OC: 04/16/06 R: 03
Claimant: Respondent (4-R)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-1 - Voluntary Quit
871 IAC 24.27 - Voluntary Quit of Part-time Job

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated May 2, 2006, reference 01, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on May 23, 2006. The parties were properly notified about the hearing. The claimant participated in the hearing. David Williams participated in the hearing on behalf of the employer. Official notice is taken of the Agency's records regarding the claimant's unemployment insurance claim, which show the claimant's high quarter wages were in the third quarter of 2005 during which he was paid \$596.00 by the employer, \$934.50 by BH Management, and \$1,271.89 by Regis Corp. The records also show that the claimant worked for Dolgencorp after his employment with the employer ended. If a party objects to taking official notice of these facts, the objection must be submitted in writing no later than seven days after the date of this decision.

FINDINGS OF FACT:

The claimant worked part time one or two days per week as a stocker on the overnight shift from April 27, 2000, to January 8, 2006. After the claimant worked on January 8, 2006, he stopped reporting to work. He continued to be on the schedule on February 4, 11, and 15 but failed to report to work or contact his supervisor about why he was not reporting to work. The claimant claimed he received a letter from the employer stating he was terminated, but no such letter was sent and the only letter in evidence is a letter from the insurance company terminating his insurance sent in March 2006.

The claimant continued to work for the Dollar General Store after January 8, 2006. Whether the claimant was paid enough wages after January 8, 2006, to equal ten times his weekly benefit amount is not known.

The claimant filed a new claim for unemployment insurance benefits with an effective date of April 16, 2006. The employer paid the claimant \$596.95 in wages during the third quarter of 2005, which when combined with the wages from other employers was the claimant's highest quarter of earnings during his base period. The claimant's weekly benefit amount was determined to be \$121.00, based on the wages during the third quarter of 2005.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant voluntarily quit employment without good cause attributable to the employer.

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(33) 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:

- (33) The claimant left because such claimant felt that the job performance was not to the satisfaction of the employer; provided, the employer had not requested the claimant to leave and continued work was available.

The claimant voluntarily quit employment without good cause attributable to the employer. The job, however, was part time, and the claimant has sufficient wages from other employers to qualify to receive unemployment insurance benefits. Pursuant to the rule, the employer's account will not be subject to charge for benefits paid to the claimant.

This case is remanded to the Agency to redetermine the claimant's weekly benefit amount. If the claimant presents proof that he was paid wages equal to \$1,210.00 while working for Dollar General after January 8, 2006, no redetermination of his weekly benefit amount is necessary.

DECISION:

The unemployment insurance decision dated May 2, 2006, reference 01, is modified in favor of the employer. The claimant voluntarily quit employment without good cause attributable to the employer. The job, however, was part time, and the claimant has sufficient wages from other employers to qualify to receive unemployment insurance benefits. The employer's account will not be subject to charge for benefits paid to the claimant. This case is remanded to the Agency to redetermine the claimant's weekly benefit amount. If the claimant presents proof that he was paid wages equal to \$1,210.00 while working for Dollar General after January 8, 2006, no redetermination of his weekly benefit amount is necessary.

saw/kkf