

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

STEVEN R WARD

Claimant

APPEAL NO. 09A-UI-05226-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

KRAJICEK PALLET INC

Employer

**Original Claim: 11/16/08
Claimant: Respondent (2-R)**

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The employer, Krajicek Pallet, filed an appeal from a decision dated March 24, 2009, reference 08. The decision allowed benefits to the claimant, Steven Ward. After due notice was issued, a hearing was held by telephone conference call on April 30, 2009. The claimant did not provide a telephone number where he could be contacted and did not participate. The employer participated by Supervisors Dale Wulf and Kody Meyer and Bookkeeper Jackie Jacobsen.

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

Steven Ward was employed by Krajicek Pallet from February 11 through 21, 2009 as a part-time laborer. During the course of his employment, he was absent from work for three days without giving notice to the employer. When he returned, Supervisor Dale Wulf questioned him and Mr. Ward said he had called in but did not know the name of the person he talked to. The supervisor reprimanded him and told him he must call at least one hour before the start of the shift and talk with one of the dispatchers, leaving his name and the reason for the absence.

On February 21, 2009, Mr. Ward came to work but immediately after arriving told Acting Supervisor Cody Meyer he was going to go and buy some coveralls because he would be working outside that day. Mr. Meyer did not deny him permission but also did not ask what store would be open at 6:45 a.m. The claimant never returned to the shop and never contacted the employer after that.

Steven Ward has received unemployment benefits since filing an additional claim with an effective date of February 22, 2009.

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.

The record establishes the claimant abandoned his job by leaving shortly after arriving for work on February 21, 2009, and not returning. Mr. Ward did not participate in the hearing to provide any explanation for his failure to return. He has not met his burden of proof to establish he had good cause attributable to the employer for quitting and he is disqualified.

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.

The claimant has received unemployment benefits to which he is not entitled. The question of whether the claimant must repay these benefits is remanded to the UIS division.

DECISION:

The representative's decision of March 24, 2009, reference 08, is reversed. Steven Ward is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible. The issue of whether the claimant must repay the unemployment benefits is remanded to UIS division for determination.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/kjw