

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DOUGLAS S STEELE**  
Claimant

**APPEAL NO. 08A-UI-05056-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ADVANCE MILLWORK INC**  
Employer

**OC: 04/27/08 R: 03**  
**Claimant: Respondent (2)**

Section 96.5(1) – Quit  
Section 96.3(7) – Overpayment

**STATEMENT OF THE CASE:**

The employer, Advance Millwork, filed an appeal from a decision dated May 22, 2008, reference 01. The decision allowed benefits to the claimant, Douglas Steele. After due notice was issued, a hearing was held by telephone conference call on June 10, 2008. The claimant participated on his own behalf. The employer participated by Plant Supervisor Steve Strah, Driver Bill Schmooke and Interiors Supervisor Tony O'Dell.

**ISSUE:**

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

**FINDINGS OF FACT:**

Douglas Steele was employed by Advance Millwork from June 4, 2007 until April 25, 2008 as a full-time driver and fill-in production worker. On Tuesday, April 22, 2008, the claimant had failed to follow instructions from Plant Manager Steve Strah. On Friday, April 25, 2008, Mr. Strah took the claimant to the office where he gave him a document which represented a verbal warning about the prior incident. The claimant was told he could sign it or not sign, or write his own comments on it. The document advised Mr. Steele he was being transferred to another department.

Mr. Strah left to go to the dock to give orders to the other drivers. The claimant came out to the dock and declared he was not going to sign the document. Apparently at some point he "poked" Mr. Strah in the chest and the plant manager told him not to touch him. Mr. Strah then left to go back to the office to see if one of the owners had arrived in order to discuss the situation. The claimant followed, uninvited, and the two of them continued their dispute.

Just prior to entering the office the two stopped and again Mr. Steele poked Mr. Strah in the chest. The claimant declared he was going to "sue," but it is not clear whether he meant the plant manager personally or the company in general. At that point the claimant walked away and punched out, leaving the premises and did not return.

Douglas Steele has received unemployment benefits since filing a claim with an effective date of April 27, 2008.

**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(28) 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:

(28) The claimant left after being reprimanded.

The record established the claimant quit. He has asserted he was discharged but there is no supporting evidence for this. The employer's witnesses confirmed the sequence of events leading to the separation and the claimant's conduct was aggressive, abusive and insubordinate. He quit rather than acknowledge the verbal warning or the disciplinary transfer. When an employer demotes an employee for misconduct warranting discharge, an employee who subsequently leaves employment does so without good cause attributable to the employer, and is disqualified from receiving unemployment benefits. Goodwin v. BPS Guard Services, Inc., 524 N.W.2d 28 (Minn. App. 1994). The claimant's quit is without good cause attributable to the employer and he is disqualified.

Iowa Code section 96.3-7 provides:

7. Recovery of overpayment of benefits. 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.

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.

The claimant has received unemployment benefits to which he is not entitled. These must be recovered in accordance with the provisions of Iowa law.

**DECISION:**

The representative's decision of May 22, 2008, reference 01, is reversed. Douglas Steele is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible. He is overpaid in the amount of \$1,476.00.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

bgh/css