

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BRIAN A HOCHBERGER
Claimant

APPEAL NO. 07A-UI-08645-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**EAST IOWA MACHINE COMPANY
EIMCO**
Employer

**OC: 11/12/06 R: 04
Claimant: Respondent (2)**

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

STATEMENT OF THE CASE:

The employer, EIMCO, filed an appeal from a decision dated September 6, 2007, reference 02. The decision allowed benefits to the claimant, Brian Hochberger. After due notice was issued a hearing was held by telephone conference call on September 25, 2007. The claimant participated on his own behalf. The employer participated by Manager Rick Hoffman; Lathe Supervisor Ron Reuter; Machine Operator Russ Hoeger; and Lathe Lead Shawn Stumpf.

ISSUE:

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

FINDINGS OF FACT:

Brian Hochberger was employed by EIMCO from April 23 until August 13, 2007, as a full-time machine operator working 3:00 p.m. until 1:30 a.m. On August 13, 2007, the claimant notified Lathe Lead Shawn Stumpf and Lathe Supervisor Russ Reuter he had “had enough of this place” and he “did not know what was going on.” He put his tools down and left.

The claimant felt he was not being given enough information about the job in progress from the day shift operator he relieved, and that Mr. Stumpf and Mr. Reuter were not giving him enough information about what he had to do and how he should be doing it. However, the employer considered him to be a good employee and did not find his work to be unsatisfactory. He had not received any disciplinary action and his job was not in jeopardy for any reason. The employer has an open door policy but Mr. Hochberger had never brought his concerns to the attention of Manager Rick Hoffman or the human resources manager.

Brian Hochberger has received unemployment benefits since filing an additional claim with an effective date of August 12, 2007.

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(21) and (33) include:

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:

(21) The claimant left because of dissatisfaction with the work environment.

(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 quit because he was unhappy with the work and felt he was not getting the instruction and supervision he needed to do his job. However, at no point did he take advantage of the open door policy and speak with Manager Rick Hoffman or appeal to the human resources manager for assistance. The employer did not feel his work was unsatisfactory and he was not in danger of being discharged for any reason.

The record establishes the claimant did not have good cause attributable to the employer for quitting 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 September 6, 2007, reference 02, is reversed. Brian Hochberger 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 \$1,934.00.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css