

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant was employed as a full-time pre-way line leader technician and back-up supervisor from September 3, 2003 through July 22, 2005. He was assigned to work at Proctor & Gamble and the pre-way department is where employees weigh and measure out different chemicals that go into the shampoo products. The claimant typically worked third shift and finished his Thursday night shift early on July 22, 2005, at 4:00 a.m. This was the end of his workweek. The employer needed volunteers to work in the pre-way department on the second shift that Friday, but the claimant did not volunteer. He was already scheduled to work that shift with the second shift supervisor so that he could take over for this supervisor during the following week when the supervisor was on vacation.

The claimant arrived at approximately 1:00 p.m. and worked with the supervisor for a couple hours. The pre-way department contacted the second shift supervisor looking for some help in the department since the work was behind because of computer problems. The supervisor asked the claimant if he would work there for a couple hours and the claimant was sent to that department. The claimant was angry because he did not want to work in the pre-way department and believed the work was only behind because the employees were loafing. He then walked off the job without talking to anyone. No one knew where he went and the second shift supervisor finally contacted the employees working at the front gate and was told the claimant had turned in his badge and left the facility. The second shift supervisor called the claimant at home but was only able to leave a message. The claimant later called in and left a message that he would be at work on Monday, to work for the second shift supervisor. The employer contacted the claimant upon receiving this message and notified him that he was no longer employed since he abandoned his job.

The claimant filed a claim for unemployment insurance benefits effective August 14, 2005 and has received benefits after the separation from employment in the amount of \$888.00.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the reasons for the claimant's separation from employment qualify him to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if he voluntarily quit without good cause attributable to the employer or if the employer discharged him for work-connected misconduct. Iowa Code sections 96.5-1 and 96.5-2-a.

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980). The claimant demonstrated his intent to quit and acted to carry it out when he walked off the job without notice because he did not want to work where the employer had placed him for a couple hours. The law presumes it is a quit without good cause attributable to the employer when an employee leaves because of dissatisfaction with the work environment. 871 IAC 24.25(21). The claimant did not want to work in the pre-way department and did not feel he had to since he had not previously volunteered to work in that department. He felt he was only there to work with the second shift supervisor and when he was sent down to the pre-way department, he became angry and left.

Regardless of whether or not the claimant was scheduled for that shift, he was assigned to work in a specific department and should have continued working. The type of work he

performs is based on the employer's needs, not what the claimant wants. The claimant's job abandonment demonstrates a willful and material breach of the duties and obligations to the employer and a substantial disregard of the standards of behavior the employer had the right to expect of the claimant. It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify him. Iowa Code section 96.6-2. The claimant has not satisfied that burden. Benefits are denied.

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.

Because the claimant's separation was disqualifying, benefits were paid to which the claimant was not entitled. Those benefits must be recovered in accordance with the provisions of Iowa law.

DECISION:

The unemployment insurance decision dated September 2, 2005, reference 01, is reversed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The claimant is overpaid benefits in the amount of \$888.00.

sdb/kjw