

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BRUCE E SADDORIS
Claimant

APPEAL NO. 07A-UI-04133-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEAM STAFFING SOLUTIONS INC
Employer

OC: 04/01/07 R: 03
Claimant: Respondent (2)

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

STATEMENT OF THE CASE:

The employer, Team Staffing Solutions, filed an appeal from a decision dated April 13, 2007, reference 01. The decision allowed benefits to the claimant, Bruce Saddoris. After due notice was issued, a hearing was held by telephone conference call on May 9, 2007. The claimant did not provide a telephone number where he could be contacted and did not participate. The employer participated by Administrative Assistant Sarah Fielder.

ISSUE:

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

FINDINGS OF FACT:

Bruce Saddoris was employed by Team Staffing from July 31, 2006 until March 27, 2007. During that time he was on a long-term assignment at Associated Materials. The client requested the claimant's removal on March 27, 2007, due to attendance problems and because his "attitude and production were not where they needed to be."

Branch Manager Erin Chase contacted the claimant by phone to tell him he did not need to report to Associated Materials any longer. She offered to find him another assignment, but he said he did not have transportation to any other place except Associated Material and he would go file for unemployment benefits and "get back" to the employer when he needed more work. He has not contacted Team Staffing as of the date of the hearing.

Bruce Saddoris has received unemployment benefits since filing a claim with an effective date of April 1, 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(1) 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:

(1) The claimant's lack of transportation to the work site unless the employer had agreed to furnish transportation.

The claimant was removed from his assignment but the employer still had work for him at other clients. He was not able to accept other assignments due to lack of transportation. Under the provisions of the above Administrative Code section, this is a voluntary quit without good cause attributable to the employer and the claimant 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 April 13, 2007, reference 01, is reversed. Bruce Saddoris 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 \$752.00.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/kjw