

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JAMES R MACKEY
Claimant

APPEAL NO. 070-UI-02344-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BEST BUY STORES
Employer

OC: 11/19/06 R: 02
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit
Section 96.3-7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated December 15, 2006, reference 02, which held claimant ineligible for unemployment insurance benefits. The case was remanded for a new hearing pursuant to the March 2, 2007 order of the Employment Appeal Board. After due notice, a telephone conference hearing was scheduled for and held on March 26, 2007. Claimant participated personally. Employer participated by Sandy Fitch, Hearing Representative TALX with witnesses Jim Wrolson, Customer Experience Manager and Yenga Basolene, General Manager.

ISSUES:

The issues in this matter are whether claimant was discharged for misconduct and is overpaid unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for the employer November 10, 2006.

Claimant last worked for employer on November 10, 2006. Claimant had a complaint filed against him by a customer for poor service. Claimant worked in the computer department. Claimant did not have the training and experience to do the job properly. Claimant was called into a meeting and asked what he was going to do. Claimant asked what the employer was going to do. The employer indicated that no dismissal was pending. Claimant was not in danger of losing his job due to poor work performance. It was the Christmas sales season. Employer was short handed. Claimant quit because of dissatisfaction with the job.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to the employer when claimant terminated the employment relationship because of dissatisfaction with the work environment. Claimant's

dislike for the computer department is not cause attributable to employer for a quit. Claimant was not in danger of a reprimand or discharge. This is a quit for personal reasons. Benefits denied.

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) 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:

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

The next issue concerns an overpayment of unemployment insurance benefits.

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 administrative law judge holds that claimant is overpaid unemployment insurance benefits in the amount of \$2,339.00 pursuant to Iowa Code section 96.3-7 because a decision has determined claimant is ineligible to receive benefits due to a voluntary quit without good cause attributable to employer.

Since claimant has been disqualified for the receipt of unemployment insurance benefits, the claim shall be locked until claimant has requalified or is otherwise eligible.

DECISION:

The decision of the representative dated December 15, 2006, reference 02, is affirmed. Unemployment insurance benefits are withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible. Claimant is overpaid unemployment insurance benefits in the amount of \$2,339.00.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/css