

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TRAVIS ASTELLE**  
Claimant

**APPEAL NO: 10A-UI-15952-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**JELD-WEN INC**  
Employer

**OC: 11-22-09**  
**Claimant: Respondent (2R)**

Section 96.5-1 – Voluntary Leaving  
Section 96.3-7 – Recovery of Benefit Overpayment

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the November 8, 2010, reference 02, decision that allowed benefits to the claimant. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on January 11, 2011. The claimant participated in the hearing. Gayle Kingery, Human Resources Associate; Jamey Gibson, Coordinating Manager; and Tom Kuiper, Employer Representative; participated in the hearing on behalf of the employer.

**ISSUE:**

The issue is whether the claimant voluntarily left his employment with good cause attributable to the employer.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time production worker for Jeld-Wen from May 22, 2009 to September 20, 2010. The claimant was hired out of high school and at the time of hire told the employer he would be going to school in the fall and the employer said it would work with him. The claimant then signed up for classes that met during the day and required him to be gone two to three hours during the middle of the workday when he had class. When Coordinating Manager Jamey Gibson learned of the situation in May 2010 he told the claimant he needed to either take night classes and continue to work days or take day classes and move to second or third shift. When the next semester started in the Fall of 2010 the claimant again signed up for day classes which ran from 10:00 a.m. to 1:00 p.m. because that was the only time his classes were offered and he was gone two to three hours every day he had class. Mr. Gibson discovered the claimant was taking day classes and asked him if he remembered their previous conversation about the situation and the claimant indicated he did but his father, who was also a Jeld-Wen employee, told him he could not work nights so the claimant signed up for day classes. On September 20, 2010, Mr. Gibson called the claimant to Production Manager Nelson Watson's office and they asked him what he was going to do about his classes being held during his day shift and Mr. Watson offered to move the claimant to the second or third

shift. The claimant went and spoke to his father and came back and said his dad would not let him work nights or quit school and that he had to quit his job. He shook hands with Mr. Gibson and Mr. Watson and left. The employer had continuing work available but the claimant testified the other shifts would not work with his "lifestyle." The claimant is a full-time student.

The claimant has claimed and received unemployment insurance benefits since his separation from this employer.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment without good cause attributable to the employer.

Iowa Code § 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.

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. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6-2. When the claimant was hired and told the employer he would be attending school in the fall, the employer said it would "work with" the claimant. There is no evidence that by "work with" the employer meant the claimant could leave work for three hours every day he had class. It is more likely the employer believed the claimant would be taking night classes and he would be allowed to leave a little early if needed in order to attend an evening class. When Mr. Gibson found out about the situation he allowed the claimant to finish the semester leaving during the day for school but told him he needed to either take night classes and continue to work during the day or take day classes and work nights. When the claimant signed up for his next semester he again registered for day classes, as that was the only time his classes were offered, without first speaking to Mr. Gibson. It was not unreasonable for the employer to tell the claimant he had to decide between working and going to school during the day and the claimant made the choice to go to school, most likely the wisest course of action in the long run. Under these circumstances, the administrative law judge concludes the claimant has not demonstrated that his leaving was attributable to the employer as defined by Iowa law. The claimant left due to his school schedule. Therefore, benefits are denied.

The unemployment insurance law provides that benefits must be recovered from a claimant who receives benefits and is later determined to be ineligible for benefits, even though the claimant acted in good faith and was not otherwise at fault. However, the overpayment will not be recovered when it is based on a reversal on appeal of an initial determination to award benefits on an issue regarding the claimant's employment separation if: (1) the benefits were not received due to any fraud or willful misrepresentation by the claimant and (2) the employer did not participate in the initial proceeding to award benefits. The employer will not be charged for benefits whether or not the overpayment is recovered. Iowa Code § 96.3-7. In this case, the claimant has received benefits but was not eligible for those benefits. The matter of determining

the amount of the overpayment and whether the overpayment should be recovered under Iowa Code § 96.3-7-b is remanded to the Agency.

**DECISION:**

The November 8, 2010, reference 02, decision is reversed. The claimant voluntarily left his employment without good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The claimant has received benefits but was not eligible for those benefits. The matter of determining the amount of the overpayment and whether the overpayment should be recovered under Iowa Code § 96.3-7-b is remanded to the Agency.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

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