

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ERIC W ONNEN

Claimant

APPEAL NO. 11A-UI-12529-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**JASPER COUNTY ANIMAL
RESCUE LEAGUE**

Employer

OC: 08/21/11

Claimant: Respondent (2-R)

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The employer, Jasper County Animal Rescue League (JCARL), filed an appeal from a decision dated September 16, 2011, reference 01. The decision allowed benefits to the claimant, Eric Onnen. After due notice was issued, a hearing was held by telephone conference call on October 19, 2011. The claimant participated on his own behalf and with Kris Smith. The employer participated by Board President Carolyn Diekema, Treasurer Rose Trapp and Volunteer Bruce Trapp.

ISSUE:

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

FINDINGS OF FACT:

Eric Onnen was employed by JCARL from March 23 until August 19, 2011 as a full-time animal control officer. He resigned on August 26, 2011, because of disagreements with the manner in which the employer was operating the facility.

Mr. Onnen was under the assumption he was the facility manager at the time of separation because Treasurer Rose Trapp had told him on August 5, 2011, that the employer was considering approving the creation of such a position and he would be considered for the job once it had been approved. It had not been approved by the time Mr. Onnen had quit. He was unhappy that things were not being run the way he thought they ought to be. His major concern was that one of the prison inmates who worked at the facility was allowed to give the animals vaccinations by syringe. He maintained this was a violation of the department of corrections policies but, when he inquired of the liaison at the prison, he was told there was no formal written policy on that issue.

He was also displeased because the animal cages were not being cleaned per his instructions and in violation of the department of health codes. He was not the facilities manager at the time but thought he was and took exception to his orders being ignored. Instead of notifying the health department he got into an argument with Director Emily Boswick on August 26, 2011, and quit at the time. He had also gotten into an argument with a volunteer the same day after

accusing the volunteer of doing something wrong on a call on which the volunteer had not actually participated.

In addition, his final concern was that the facility had substituted the ashes of an animal which the owner had paid to have cremated. When the animal could not be located, he alleged the employer had made arrangements to substitute the ashes. The animal was actually located and the substitute did not take place.

Eric Onnen has received unemployment benefits since filing a claim with an effective date of August 21, 2011.

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(6), (21) and (22) provide:

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:

- (6) The claimant left as a result of an inability to work with other employees.
- (21) The claimant left because of dissatisfaction with the work environment.
- (22) The claimant left because of a personality conflict with the supervisor.

The claimant quit because he was dissatisfied with the manner in which the facility was being operated. He was unable to get along with other employees and his supervisor as well. The major problem appears to have been that he thought he was the facility manager at the time and this is not correct. He had been told plainly that he would be considered for the job once it had been approved by the board, but the board had not approved it as of the date of his separation.

He had other recourse such as filing a complaint with the health department about the cleaning of the cages. His objection to an inmate using a syringe to vaccinate animals was addressed to the department of corrections but, as there was no specific policy, the employer was not guilty of any violations.

His complaint about the attempted substitution of the animal ashes is moot as it did not actually occur. If he had approached the issue calmly with Ms. Boswick she might have been able to

advise him the matter had actually been properly handled. But it appears he quit before the director was able to productively address his concerns.

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, as amended in 2008, provides:

7. Recovery of overpayment of benefits.

a. 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.

b. (1) 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. However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment. The employer shall not be charged with the benefits.

(2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the department to represent any employers in unemployment insurance matters. This subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

The claimant has received unemployment benefits to which he is not entitled. The question of whether the claimant must repay these benefits is remanded to the UIS division.

DECISION:

The representative's decision of September 16, 2011, reference 01, is reversed. Eric Onnen is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount in insured work, provided he is otherwise eligible. The issue of whether the claimant must repay the unemployment benefits is remanded to UIS division for determination.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css