

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**RICHARD D WILLIS**  
Claimant

**APPEAL NO. 07A-UI-05040-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**AMERICAN BUILDING MAINTENANCE  
COMPANY OF KENTUCKY INC**  
Employer

**OC: 04/15/07 R: 03**  
**Claimant: Respondent (2)**

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

**STATEMENT OF THE CASE:**

The employer appealed an unemployment insurance decision dated May 10, 2007, reference 01, that concluded the claimant was laid off and eligible for unemployment insurance benefits. A telephone hearing was held on June 5, 2007. The parties were properly notified about the hearing. The claimant failed to participate in the hearing. Beth Crocker participated in the hearing on behalf of the employer with a witness, Karen Clement.

**ISSUES:**

Did the claimant voluntarily quit employment without good cause attributable to the employer?

Was the claimant overpaid unemployment insurance benefits?

**FINDINGS OF FACT:**

The claimant worked as a general cleaner for the employer from November 5, 2005, to November 16, 2006. After November 16, 2006, the claimant had taken some time off work with approval from the employer. He was scheduled to return to work on November 24, 2006.

During the time the claimant was off work, the client business where he worked complained about his conduct and demanded that he be removed from the assignment. The claimant had been removed from another assignment due to his behavior a couple weeks earlier.

Karen Clement, District Manager, contacted the claimant before he was scheduled to report to work on November 24. He was informed that he was being removed from his assignment. He was instructed to report to the office to discuss his conduct. The claimant informed Clement that he did not want to come into the office. Clement warned him that if he did not report to the office as instructed, he would be considered to have voluntarily left employment. The claimant told Clement that he probably would not be reporting to the office.

The claimant did not report to the office or contact the employer again regarding his employment status although he did contact the employer regarding his paycheck. If the claimant had reported to the office, he would have been suspended for three days, but afterward he would have been eligible for placement on another assignment. The claimant's removal from the assignment would not have terminated the claimant's employment.

The claimant filed a new claim for unemployment insurance benefits with an effective date of April 15, 2007. The claimant filed for and received a total of \$376.00 in unemployment insurance benefits for the weeks between April 15 and May 12, 2007.

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

The issue in this case is whether the claimant voluntarily quit employment without good cause attributable to the employer.

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.

The evidence establishes that the claimant voluntarily quit employment when he failed to report to the office as instructed and failed to have any further contact with the employer regarding his employment status. The evidence fails to establish that the claimant quit with good cause attributable to the employer.

The next issue in this case is whether the claimant was overpaid 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.

As a result of this decision, the claimant is disqualified from receiving unemployment insurance benefits and was overpaid \$376.00 in unemployment insurance benefits for the weeks between April 15 and May 12, 2007.

### **DECISION:**

The unemployment insurance decision dated May 10, 2007, reference 01, is reversed. The claimant voluntarily left employment without good cause attributable to the employer. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid

wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The claimant was overpaid \$376.00 in unemployment insurance benefits, which must be repaid.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/css