

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JON L JELINEK

Claimant

APPEAL NO: 07A-UI-03468-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

JELINEK OLMSTEAD CONSTRUCTION

Employer

**OC: 03/0707 R: 03
Claimant: Respondent (2)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Jelinek Olmstead Construction, Inc. (employer) appealed a representative's March 30, 2007 decision (reference 01) that concluded Jon L. Jelinek (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant was laid off from work for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 19, 2007. The claimant participated in the hearing. Dan Olmstead and Michelle Means appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit his employment for reasons that qualify him to receive unemployment insurance benefits, or did the employer discharge him for work-connected misconduct?

FINDINGS OF FACT:

The claimant and Olmstead formed a partnership six years ago. They each owned 50 percent of the business. The partnership had no problems until September 2005.

In September 2005, the claimant was diagnosed with a terminal medical condition. The claimant decided to spend more time with his family instead of working. As a result, the claimant did not spend much time working on behalf of the employer's interests. In March 2006, the claimant learned the initial diagnosis was incorrect and surgery would resolve his medical issues. The claimant had surgery in March 2006.

After the claimant had recovered from the surgery, he told Olmstead he had lost interest in their partnership and wanted Olmstead to buy out the claimant's share. Olmstead agreed to do this and contacted an attorney and an accountant to buyout the claimant's 50 percent share. Finalizing the buyout took about six months or until October 31, 2006. Since the claimant was

not doing any more work, Olmstead did not “pay” the claimant any salary after July 14, 2006 as a result of the October 31, 2006 buyout agreement.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment for reasons that qualify him to receive unemployment insurance benefits, or an employer discharges him for work-connected misconduct. Iowa Code sections 96.5-1, 2-a. The facts establish the claimant initiated the employment separation when he asked Olmstead to buyout his 50 percent share. For unemployment insurance purposes, the claimant voluntarily quit his employment.

The claimant established personal reasons for quitting. These reasons do not qualify him to receive unemployment insurance benefits. Even though the claimant owned 50 percent of the business, he concluded it was best for Olmstead to buy out the claimant’s share because Olmstead had already told the claimant he did not want to continue to work with the claimant because the claimant had not been pulling his weight. Since the claimant was a 50 percent owner, he could have refused to sell his portion. This did not happen. Since the claimant approached Olmstead about buying him out, the claimant quit his employment for reasons that do not qualify him to receive unemployment insurance benefits.

The claimant has not filed any weekly claims. So no overpayment exists.

DECISION:

The representative March 30, 2007 decision (reference 01) is reversed. The claimant voluntarily quit his employment when he asked Olmstead to buy out his share of the business. The claimant quit for reasons that do not qualify him to receive unemployment insurance benefits. The claimant is disqualified from receiving unemployment insurance benefits as of March 4, 2007. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer’s account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs