

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MICHAEL D JAYNE**  
Claimant

**APPEAL NO. 07A-UI-00182-H**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CHARLES GABUS FORD INC**  
Employer

**OC: 12/10/06 R: 02**  
**Claimant: Respondent (2)**

Section 96.5(1) – Quit  
Section 96.3(7) – Overpayment

**STATEMENT OF THE CASE:**

Charles Gabus Ford filed an appeal from a decision dated January 2, 2007, reference 01. The decision allowed benefits to Michael Jayne. After due notice was issued, a hearing was held in Des Moines, Iowa, on January 30, 2007. The claimant was paged in the main waiting area at 2:30 p.m. and again at 2:40 p.m. He was not present and did not participate. The employer participated by Service Manager Lowell Dudzinski.

**ISSUE:**

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

**FINDINGS OF FACT:**

Michael Jayne was employed by Charles Gabus Ford from February 8, 2005 until October 5, 2006. He was a full-time technician.

In July of 2006 the claimant had worked on a customer's vehicle and did such an improper job that it jeopardized the safety of the customer. After that he was no longer allowed to do certain jobs until he could be trained further. He still worked the same number of hours but the types of job he could do was limited.

On October 5, 2006, Shop Foreman Gary Vignovich, approached the claimant and was going to issue him a written warning. This written warning was because the claimant had left the lug nuts loose on a tire and the entire wheel fell off while it was being driven across the employer's parking lot. The claimant told Mr. Vignovich that he was quitting because he thought the written warning was being improperly issued. Continuing work was still available to him even if the reprimand had been issued as intended.

Michael Jayne has received unemployment benefits since filing a claim with an effective date of December 10, 2006.

## **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(28) 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:

(28) The claimant left after being reprimanded.

The claimant quit rather than be reprimanded. Under the provisions of the above Administrative Code this is a voluntary quit without good cause attributable to the employer.

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 claimant has received unemployment benefits to which he is not entitled and these must be recovered in accordance with the provisions of Iowa law.

**DECISION:**

The representative's decision of January 2, 2007, reference 01, is reversed. Michael Jayne is disqualified and benefits are withheld until he has requalified by earning ten times his weekly benefit amount, provided he is otherwise eligible. He is overpaid in the amount of \$1,848.00.

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Bonnie G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

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