

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MARK E ESSING**

Claimant

**APPEAL NO. 07A-UI-07905-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ABC LAWN CARE LLC**

Employer

**OC: 12/03/06 R: 01  
Claimant: Respondent (2)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

ABC Lawn Care LLC (employer) appealed a representative's August 10, 2007 decision (reference 02) that concluded Mark E. Essing (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant voluntarily quit his employment for reasons that qualify him to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 18, 2007. The claimant participated in the hearing. Mark Groat, the owner, and Melody Snelson, an administrative assistant, 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?

**FINDINGS OF FACT:**

The claimant started working for the employer in 2005. The claimant worked full time spraying lawns from late March through November. The employer's work was seasonal, but the claimant and other employees performed removed snow during the winter. The employer paid employees the hours they worked during the winter months after they were called back to work in the spring.

The first year the claimant was laid off from work, the employer told employees they would receive their winter hour wages after they returned to work at various times of the year. That year, the employer paid employees in accordance with their last name or A through Z. When the employer laid off employees in late 2006, the employer indicated employees would all be paid for winter hours when the employer called the employees back to work. After calling employees back to work in late March 2007, the employer then told employees that winter hours could not be paid to everyone at once. The employer would again pay employees for winter hours during the course of several months and this time employees would be paid in reverse

order or Z through A. The claimant may not have liked that arrangement, but he did say anything about his winter wages until mid-July.

The last day the claimant worked for the employer was July 10. On July 11, the claimant called and indicated he would be an hour late for work. The claimant did not report to work at all on July 11. The claimant contacted the employer through July 19 to report that he was unable to work. The claimant was absent because his daughter had some health issues and he had some personal health issues. As a result of his health issues, the claimant was unable to work.

On July 17, the claimant told the Shelli Groat, the treasurer, that he needed his winter hour wage check so he could go to a doctor. After learning the claimant needed money to see a doctor, the employer decided to issue the claimant a check the following Monday, July 23, to pay him for his winter hours.

On July 19, Snelson called the claimant because he had not turned in a ticket for services he had performed on July 9. The claimant told Snelson he was going to turn in his uniforms and keys because he was quitting. The claimant quit because the employer did not timely pay his wages for hours he had worked during the winter months.

The claimant reopened his claim for benefits during the week of July 15, 2007. He has not filed any weekly claims.

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

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer. Iowa Code § 96.5-1. The claimant voluntarily quit his employment on July 19, 2007. When a claimant quits, he has the burden to establish he quit for reasons that qualify him to receive unemployment insurance benefits. Iowa Code § 96.6-2.

The law presumes a claimant voluntarily quits employment with good cause when there is a substantial change in the employment. 871 IAC 24.26(1). The facts do not establish there was a substantial change in the claimant's employment or in the way the employer paid wages for winter work. While the claimant may not have agreed how or when the employer was going to pay employees for hours worked in the winter, he did not raise any immediate objections to this plan. As soon as the owner realized the claimant needed money to go to a doctor for personal health issues, the employer paid the claimant. It is understandable that the claimant may have been extremely frustrated when he did not feel well and did not have money to see a doctor. The employer took reasonable steps issuing the claimant a check for wages he earned during the winter after learning about the claimant's medical situation.

The claimant established personal reasons for quitting, but these reasons do not qualify him to receive unemployment insurance benefits. As of July 15, 2007, the claimant is not qualified to receive unemployment insurance benefits.

#### **DECISION:**

The representative's August 10, 2007 decision (reference 02) is reversed. The claimant voluntarily quit his employment for reasons that do not qualify him to receive unemployment insurance benefits. The claimant is disqualified from receiving unemployment insurance benefits as of July 15, 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.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

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