

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JEREMY J HANSON**  
Claimant

**APPEAL NO. 06A-UI-11774-AT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BLACKTOP SERVICE COMPANY**  
Employer

**OC: 10-29-06 R: 01  
Claimant: Respondent (2)**

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

**STATEMENT OF THE CASE:**

Blacktop Service Company filed a timely appeal from an unemployment insurance decision dated November 29, 2006, reference 01, that allowed benefits to Jeremy J. Hanson. After due notice was issued, a telephone hearing was held December 21, 2006, with Mr. Hanson participating. President Bob Wagner participated for the employer. Exhibit One was admitted into evidence.

**ISSUE:**

Did the claimant voluntarily leave work with good cause attributable to the employer, or was he laid off?

**FINDINGS OF FACT:**

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Jeremy J. Hanson began working as a laborer for Blacktop Service Company in July 2006. His employment ended on November 2, 2006.

In November 2006, the company provided transportation for Mr. Hanson to and from the work site. After bringing him to the work site on November 2, 2006, Foreman Craig Vogt told Mr. Hanson that he would lose his job if he had any further unexcused absences and that the crew would be working each Saturday until the end of the season. Mr. Hanson then called his wife who drove to the job site. Mr. Hanson went home with her and did not report to work again. He filed a claim for unemployment insurance benefits effective October 29, 2006 and has received unemployment insurance benefits since that time.

**REASONING AND CONCLUSIONS OF LAW:**

The question is whether the evidence establishes that Mr. Hanson left work of his own volition or whether he was laid off. For the reasons which follow, the administrative law judge concludes that Mr. Hanson voluntarily left 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.

Mr. Hanson brought out a significant piece of evidence. The employer provided his transportation to and from the work site. It is not plausible that the employer would bring Mr. Hanson to the job site only to tell him that his services were no longer needed. That would have been done either at the end of a work day with the employer providing transportation back home, or he would have been notified of the lay off when the driver came to pick him up. Instead, Mr. Hanson provided his own transportation from the job site back home. This leads the administrative law judge to the conclusion that the separation was a quit rather than a lay off.

Evaluation of the evidence would have been easier for the administrative law judge if Mr. Vogt had testified. Nonetheless, Mr. Wagner's hearsay testimony of Mr. Vogt's conversation with Mr. Hanson is plausible considering Mr. Hanson's spotty attendance record and the company's desire to finish as much work as possible before weather caused a seasonal shutdown. An individual who resigns after being reprimanded is considered to have left work without cause attributable to the employer. See 871 IAC 24.25(28). Benefits must be withheld.

Mr. Hanson has received unemployment insurance benefits to which he is not entitled. They must be recovered in accordance with the provisions of Iowa Code section 96.3-7.

**DECISION:**

The unemployment insurance decision dated November 29, 2006, reference 01, is reversed. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. He has been overpaid by \$956.00.

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Dan Anderson  
Administrative Law Judge

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Decision Dated and Mailed

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