

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**RYAN P WELU**  
Claimant

**APPEAL NO. 12A-UCX-00004-VST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BOYS & GIRLS CLUB OF  
GREATER DUBUQUE**  
Employer

**OC: 12/11/11**  
**Claimant: Respondent (2R)**

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

**STATEMENT OF THE CASE:**

The employer filed an appeal from a decision of a representative dated January 26, 2012, reference 01, which held claimant eligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on February 28, 2012. The employer participated by Dan Reiter, the director of facilities and maintenance. The claimant failed to respond to the hearing notice and did not participate. The record consists of the testimony of Dan Reiter.

**ISSUES:**

Whether the claimant voluntarily left for good cause attributable to the employer; and

Whether the claimant has been overpaid unemployment insurance benefits.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony of the witness and having considered all of the evidence in the record, makes the following findings of fact:

The employer is a nonprofit agency that provides social recreation. The claimant was hired at the beginning of the summer in 2011. He was an assistant in the computer center and was a part-time employee. The claimant gave the employer a two-week notice of his intent to resign his position effective August 4, 2011. The claimant's last day of work was August 4, 2011. The employer accepted the resignation. The claimant resigned in order to move to Rockford, Illinois, and possibly attend school. Work was available for the claimant had he elected to keep working for the employer.

## REASONING AND CONCLUSIONS OF LAW:

871 IAC 24.25(2) 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:

(2) The claimant moved to a different locality.

The evidence in this case established that it was the claimant who initiated the separation of employment. The claimant gave the employer a two-week notice of his intent to resign in order to move to Rockford, Illinois. The employer honored the two-week notice and the claimant quit his job effective August 4, 2011. The claimant did not participate in the hearing and did not offer any evidence that he left for good cause attributable to the employer. Accordingly, benefits are denied.

The next issue is overpayment of benefits.

Iowa Code section 96.3-7, as amended in 2008, provides:

### 7. Recovery of overpayment of benefits.

a. 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.

b. (1) 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. However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment. The employer shall not be charged with the benefits.

(2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the

department to represent any employers in unemployment insurance matters. This subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

The overpayment issue is remanded to the Claims Section for determination.

**DECISION:**

The decision of the representative dated January 26, 2012, reference 01, is reversed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible. The overpayment issue is remanded to the Claims Section for determination.

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Vicki L. Seeck  
Administrative Law Judge

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Decision Dated and Mailed

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