

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**EVGENY BRUD**

Claimant

**APPEAL NO: 12A-UI-09254-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**THE UNIVERSTIY OF IOWA**

Employer

**OC: 07/01/12**

**Claimant: Respondent (2/R)**

Iowa Code § 96.5(1) – Voluntary Quit

**PROCEDURAL STATEMENT OF THE CASE:**

The employer appealed a representative's July 30, 2012 determination (reference 01) that held the claimant qualified to receive benefits and the employer's account subject to charge because he had been discharged for nondisqualifying reasons. The claimant responded to the hearing notice, but was not available for the hearing. A message was left for the employer to call the Appeals Section immediately if he wanted to participate in the hearing. Mary Eggenberg, a benefits specialist, appeared on the employer's behalf.

The claimant responded to the message left earlier by calling the Appeals Section about 3:00 p.m. Based on the evidence, the employer's arguments, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

**ISSUES:**

Is there good cause to reopen the hearing?

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

**FINDINGS OF FACT:**

The claimant started working for the employer in November 2010 as a part-time research assistant. Before late June 2012, the claimant told the employer he planned to go to graduate school and would have to resign his job as a research assistant. The claimant's last day of work was June 29. The employer's records indicate he quit to go to graduate school.

The claimant established a claim for benefits during the week of July 1, 2012. He has filed for and received benefits since July 1.

After hearing notices were mailed to the parties, the claimant contacted the Appeals Section before the August 23 hearing and provided the phone number to call him for the hearing. This phone number was called, but the clamant was not available for the 9:30 a.m. scheduled

hearing. The claimant returned the call around 3:00 p.m. The claimant had forgotten about the 9:30 hearing and went to graduate school orientation instead.

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

If a party responds to a hearing notice after the record has been closed and the party who participated at the hearing is no longer on the line, the administrative law judge can only ask why the party responded late to the hearing notice. If the party establishes good cause for responding late, the hearing shall be reopened. The rule specifically states that failure to read or follow the instructions on the hearing notice does not constitute good cause to reopen the hearing. 871 IAC 26.14(7)(b) and (c). Since the claimant provided his phone number before the scheduled August 23 hearing, he received the hearing notice and knew about the scheduled hearing. It is understandable that the claimant forgot about the hearing when orientation for graduate school was held on the same day, August 23. Unfortunately, forgetting about the scheduled hearing does not establish good cause to reopen the hearing. Therefore, the hearing cannot be reopened.

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer, or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §§ 96.5(1), (2)a. Based on the evidence presented during the hearing, the claimant quit his part-time job. The employer did not discharge him. When a claimant quits, he has the burden to establish he quit for reasons that qualify him to receive benefits. Iowa Code § 96.6(2).

The law presumes a claimant quits without good cause if he leaves employment to go to school. 871 IAC 24.25(26). The claimant had compelling personal reasons for quitting, to attend graduate school, but this reason does not qualify him to receive benefits. Since the claimant only has wage credits from this employer, 871 IAC 24.27 does not apply. As of July 1, 2012, the claimant is not qualified to receive benefits.

The issue of overpayment or whether the claimant is eligible for a waiver of any overpayment of benefits he may have received since July 1, 2012, will be remanded to the Claims Section to determine.

#### **DECISION:**

Even though the claimant intended to participate in the hearing, forgetting about the scheduled hearing does not establish good cause to reopen the hearing. The representative's July 30, 2012 determination (reference 01) is reversed. The employer did not discharge the claimant. Instead, the claimant voluntarily quit his employment for personal reasons that do not qualify him to receive benefits. The claimant is disqualified from receiving unemployment insurance benefits as of July 1, 2012. 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.

The issue of overpayment or whether the clamant is eligible for a waiver of any overpayment is **Remanded** to the Claims Section to determine.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/pjs