

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

IVORY B FOX
Claimant

APPEAL NO. 06A-UI-11693-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

APAC CUSTOMER SERVICES OF IOWA
Employer

**OC: 10/29/06 R: 04
Claimant: Respondent (2)**

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

STATEMENT OF THE CASE:

APAC Customer Services of Iowa (employer) appealed a representative's November 21, 2006 decision (reference 04) that concluded Ivory B. Fox (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant had been discharged for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on December 20, 2006. The claimant failed to respond to the hearing notice by contacting the Appeals Section prior to the hearing and providing the phone number at which he could be contacted to participate in the hearing. As a result, no one represented the claimant. Turkessa Hill, the benefits administrator, appeared on the employer's behalf. Based on the evidence, the arguments of the employer, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Did the claimant voluntarily quit his employment for reasons that do not qualify him to receive unemployment insurance benefits, or did the employer discharge him for work-connected misconduct?

Has the claimant been overpaid any unemployment insurance benefits?

FINDINGS OF FACT:

The claimant started working for the employer on October 31, 2005. Prior to his employment separation, the claimant worked as a full-time customer service representative.

Even though the claimant had received some warnings about his attendance and for taking too many or too long of a break, his job was not in jeopardy on April 11, 2006. The employer considered the claimant a good employee.

On April 10, the employer discovered a rap song the claimant had written at his workstation. The employer considered the content of the song inappropriate. On April 11, 2006, the

employer gave the claimant a written warning for inappropriate behavior that involved the rap song he wrote on a piece of paper during work the day before. The claimant became upset. He told the employer the warning was petty and he was quitting. The claimant left and did not return to work after April 11, 2006.

The claimant established a claim for unemployment insurance benefits during the week of October 29, 2006. The administrative record does not establish that the claimant earned ten times his weekly benefit amount to requalify for benefits. The claimant filed claims for the weeks ending November 4 through December 16, 2006. He received his maximum weekly benefit amount of \$141.00 for each of these weeks.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §§ 96.5-1, 2-a. The facts establish the claimant quit his employment on April 10 when he told the employer he was quitting, left work and did not return. When a claimant quits, he has the burden to establish he quit with good cause attributable to the employer. Iowa Code § 96.6-2.

The law presumes a claimant quits without good cause when he leaves employment after being reprimanded. 871 IAC 24.25(28). The facts show the claimant quit after the employer reprimanded him for inappropriate conduct or behavior. While the claimant may have had compelling personal reasons for quitting, he quit for reasons that do not qualify him to receive unemployment insurance benefits. As of October 29, 2006, the claimant is not qualified to receive unemployment insurance benefits.

If an individual receives benefits he is not legally entitled to receive, the Department shall recover the benefits even if the individual acted in good faith and is not at fault in receiving the overpayment. Iowa Code § 96.3-7. The claimant is not legally entitled to receive benefits for the weeks ending November 4 through December 16, 2006. The claimant has been overpaid \$987.00 in benefits he received for these weeks.

DECISION:

The representative's November 21, 2006 decision (reference 04) is reversed. The employer did not discharge the claimant. 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 October 29, 2006. 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 claimant is not legally

entitled to receive benefits for the weeks ending November 4 through December 16, 2006. The claimant has been overpaid and must repay a total of \$987.00 in benefits he received for these weeks.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css