

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

REGGIE B DAVIS

Claimant

APPEAL NO. 06A-UI-11381-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

NELLIS MANAGEMENT COMPANY

Employer

**OC: 10/15/06 R: 03
Claimant: Respondent (2)**

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 representative dated November 17, 2006, reference 01, which held the claimant eligible for unemployment insurance benefits. After due notice was issued, a telephone conference hearing was scheduled for and held on December 12, 2006. Although duly notified, the claimant did not participate. The employer participated by Heather Tubbs, general manager.

ISSUE:

The issues in this matter are whether the claimant quit for good cause attributable to the employer and whether the claimant is overpaid unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all the evidence in the record, finds: The claimant last worked for this employer on September 12, 2006. Mr. Davis was employed as a crewmember. Mr. Davis gave one month's advance notice of his intention to voluntarily quit his employment and did so effective September 12, 2006. The claimant left for personal reasons.

REASONING AND CONCLUSIONS OF LAW:

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.

The administrative law judge holds that the evidence has failed to establish that the claimant voluntarily quit for good cause attributable to the employer. The claimant terminated the

employment because of a desire to relocate to a different geographic area. This is a quit without cause attributable to the employer. Benefits are withheld.

Iowa Code section 96.3-7 provides:

7. Recovery of overpayment of benefits. 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.

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.

The administrative law judge holds the claimant is overpaid unemployment insurance benefits in the amount of \$876.00, pursuant to Iowa Code section 96.3-7, because the decision has determined the claimant is ineligible to receive benefits due to a voluntary quit without good cause attributable to the employer.

DECISION:

The decision of the representative dated November 17, 2006, reference 01, is reversed. Unemployment insurance benefits shall be withheld until the claimant has worked in and been paid wages for insured work equal to ten times the claimant's weekly benefit amount, provided the claimant is otherwise eligible. The claimant is overpaid unemployment insurance benefits in the amount of \$876.00.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw