

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOSE MARTIN ALVAREZ-LEDEZMA
Claimant

APPEAL NO. 08O-UI-06715-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SEATON CORPORATION
Employer

**OC: 04/27/08 R: 03
Claimant: Respondent (2)**

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

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated May 29, 2008, reference 01, which held the claimant voluntarily quit employment with good cause attributable to the employer. A telephone conference hearing was held on August 6, 2008. The claimant participated in the hearing with the assistance of interpreter, Sara Gardner. Susan Murphy participated in the hearing on behalf of the employer

ISSUES:

Did the claimant voluntarily quit employment without good cause attributable to the employer?
Was the claimant overpaid unemployment insurance benefits?

FINDINGS OF FACT:

The employer is a staffing service that provides workers to client businesses on a temporary or indefinite basis. The claimant worked for the employer as a full-time production worker assigned to work at Proctor & Gamble from February 6, 2008, to April 29, 2008. The claimant was informed and understood that under the employer's work rules, employees were required to notify the employer if they were not able to work as scheduled and would be considered to have quit employment after three days of unreported absence.

The claimant reported to work on April 29, 2008, but had forgotten to wear his steel-toed shoes as was required by the employer. He was sent home for the day for not complying with a safety rule. He was not being discharged when he was sent home and was expected to work the next day.

The claimant failed to report to work or notify the employer about his absences on April 30, May 1, and May 2, 2008. Under the employer's work rule, he was considered to have voluntarily quit employment. The claimant did not contact the employer again because he believed the supervisor with Proctor & Gamble was unfair in sending him home and he believed Proctor & Gamble treated the temporary employees differently. He believed that he was not allowed to use the same bathrooms and parking lots as Proctor & Gamble employees, which

was untrue. The temporary employees did have their own break room separate from the Proctor & Gamble employees.

The claimant filed for and received a total of \$1,561.00 in unemployment insurance benefits for the weeks between April 27 and June 14, 2008.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant voluntarily quit 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.

Under the unemployment insurance rules, a claimant is presumed to have voluntarily quit employment without good cause attributable to the employer after three days of absence without notice to the employer in violation of a company rule. 871 IAC 24.25(6). The evidence establishes the claimant quit employment. He was never informed that he was discharged and was expected to report back on work on April 30.

The claimant's reasons for leaving are not attributable to the employer. The claimant did not have required safety equipment, and there was nothing improper about sending him home on April 29. The fact that the temporary employees could not use the Proctor & Gamble break room does not establish intolerable working conditions.

The unemployment insurance law provides that benefits must be recovered from a claimant who receives benefits and is later determined to be ineligible for benefits, even though the claimant acted in good faith and was not otherwise at fault. Iowa Code section 96.3-7.

As a result of this decision, the claimant is disqualified from receiving unemployment insurance benefits and was overpaid \$1,561.00 in benefits.

DECISION:

The unemployment insurance decision dated May 29, 2008, reference 01, is reversed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The claimant is overpaid unemployment insurance benefits in the amount of \$1,561.00.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs