

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TERRY D FOTH
Claimant

APPEAL NO: 13A-UI-03490-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

AJS OF DES MOINES INC
Employer

OC: 02/10/13
Claimant: Respondent (2/R)

Iowa Code § 96.5(1) – Voluntary Quit

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's March 15, 2013 determination (reference 01) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant's employment separation was for no disqualifying reasons. The claimant did not respond to the hearing notice or participate in the hearing. Patrick Rice, the president, and Randall Roovaart, the general manager, appeared on the employer's behalf. Based on the evidence, the employer's arguments of the parties, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

ISSUE:

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 April 2011. He worked full time as a disaster restoration manager.

On August 22, 2012, the employer told the claimant he would leave on August 27, with a crew, to go to Mississippi and work on damage that occurred from Isaac. The claimant requested and was granted vacation on August 23 and 24.

On August 27, the claimant did not call or report to work. The employer tried unsuccessfully to contact the claimant on the company phone and his personal phone. The employer delayed sending the crew to Mississippi. The employer did not have any contact with the claimant after August 22, 2012.

REASONING AND CONCLUSIONS OF LAW:

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. The evidence

does not establish that the employer discharged the claimant. Instead, the facts show the claimant quit by abandoning his employment after August 22, 2012. 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 claimant may have had personal reasons for abandoning his employment, but he did not establish that his reasons for quitting qualify him to receive benefits. As of February 10, 2013, the claimant is not qualified to receive benefits.

An issue of overpayment and/or whether the claimant is eligible for a waiver of any overpayment of benefits the claimant may have received since February 10, 2013, will be remanded to the Claims Section to determine.

DECISION:

The representative's March 15, 2013 determination (reference 01) is reversed. The claimant voluntarily quit his employment by abandoning it after August 22, 2012. The claimant is disqualified from receiving unemployment insurance benefits as of February 10, 2013. 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 issues of overpayment and whether the claimant is eligible for a waiver of any overpayment of benefits the claimant may have received since February 10, 2013, is **Remanded** to the Claims Section to determine.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/tll