

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

STEVEN J HANSON
Claimant

APPEAL NO. 09A-UI-16845-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

KERRY INC
Employer

OC: 09/20/09
Claimant: Respondent (2-R)

Section 96.5(1) – Voluntary Quit
Section 96.3(7) – Recovery of Overpayments

STATEMENT OF THE CASE:

Kerry, Inc. filed an appeal from a representative's decision dated October 27, 2009, reference 01, which held that no disqualification would be imposed regarding Steven Hanson's separation from employment. After due notice was issued, a hearing was held by telephone on December 15, 2009. Mr. Hanson participated personally. The employer participated by Darcy Johnson, Human Resources Manager, and Heather Damro, Human Resources Representative.

ISSUE:

At issue in this matter is whether Mr. Hanson was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Davis was employed by Kerry, Inc. from November 28, 2005 until September 18, 2009. He worked his entire employment as the full-time quality assurance manager. He quit the employment because he was constantly receiving calls from work after he had gone for the day. If production problems arose, Mr. Hanson was the individual job site personnel usually called. Although he complained to the plant manager about the calls, he never threatened to quit because of them.

There was quite a bit of turnover in some management positions while Mr. Hanson was employed by Kerry, Inc. He did not feel he had much job security given the number of individuals who had been discharged. He was never told he would be discharged if he did not quit. Continued work would have been available if he had not quit.

Mr. Hanson filed a claim for job insurance benefits effective September 20, 2009. He has received a total of \$3,740.00 in benefits since filing the claim.

REASONING AND CONCLUSIONS OF LAW:

An individual who leaves employment voluntarily is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). Mr. Hanson quit his job because he did not like the volume of work-related calls he received when he was not at work. It was not unreasonable to expect him, as the quality assurance manager, to be available if production problems arose. Because the employer is in production around the clock, it would not always be possible to wait until Mr. Hanson reported for his next shift to address problems.

The administrative law judge does not doubt that Mr. Hanson spoke to his plant manager about his dissatisfaction with receiving numerous calls. However, he never put the employer on notice that his dissatisfaction was such that he planned to quit if changes were not made. By not doing so, he deprived the employer of the opportunity to investigate other possibilities for handling calls after hours. Because the employer was not given a fair opportunity to salvage the employment relationship, Mr. Hanson did not have good cause attributable to the employer for quitting.

The administrative law judge appreciates that Mr. Hanson may not have felt secure in his position given the amount of turnover in management. However, his job performance had not been questioned and he had not been threatened with discharge. His speculation as to what might occur in the future, without more, does not establish good cause attributable to the employer for quitting. For the reasons stated herein, it is concluded that Mr. Hanson voluntarily quit his employment with Kerry, Inc. for no good cause attributable to the employer. Accordingly, benefits are denied.

Mr. Hanson has received job insurance benefits since filing his claim. Based on the decision herein, the benefits received now constitute an overpayment. As a general rule, an overpayment of job insurance benefits must be repaid. Iowa Code section 96.3(7). If the overpayment results from the reversal of an award of benefits based on an individual's separation from employment, it may be waived under certain circumstances. An overpayment will not be recovered from an individual if the employer did not participate in the fact-finding interview on which the award of benefits was based, provided there was no fraud or willful misrepresentation on the part of the individual. This matter shall be remanded to Claims to determine if benefits already received will have to be repaid.

DECISION:

The representative's decision dated October 27, 2009, reference 01, is hereby reversed. Mr. Hanson voluntarily quit his employment for no good cause attributable to the employer. Benefits are denied until he has worked in and been paid wages for insured work equal to ten

times his weekly job insurance benefit amount, provided he is otherwise eligible. This matter is remanded to Claims to determine the amount of any overpayment and whether Mr. Hanson will be required to repay benefits.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/css