

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JUSTIN M BLACKWOOD
Claimant

APPEAL NO. 100-UI-17061-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

GANZOS NORTHWEST LTD
Employer

OC: 06/27/10
Claimant: Respondent (2-R)

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The employer, Ganzos, filed an appeal from a decision dated July 22, 2010, reference 01. The decision allowed benefits to the claimant, Justin Blackwood. After due notice was issued a hearing was held by telephone conference call on January 27, 2011. The claimant provided a telephone number to the Appeals Section. That number was dialed at 11:00 a.m. and the only response was a voice mail. A message was left indicating the hearing would proceed without the claimant's participation unless he contacted the Appeals Section at the toll-free number prior to the close of the record. By the time the record was closed at 11:12 a.m. the claimant had not responded to the message and did not participate in the hearing or request a postponement of the hearing as required by the hearing notice.

The employer did not provide a telephone number where a witness could be contacted and did not participate.

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

A hearing was held previously in appeal 10A-UI-10591-BT. The employer provided testimony and evidence at that hearing. The claimant did not participate in that hearing, nor in the current hearing, to provide any testimony or evidence contrary to the evidence by the employer.

The administrative law judge concludes that the findings of fact in appeal 10A-UI-10591-BT should be adopted herein as though set out here in full.

The record was closed at 11:12 a.m. At 11:43 a.m. the claimant responded to the message and requested to participate. The administrative law judge returned the call at 11:54 a.m. The claimant had heard the phone ring at 11:00 a.m. but declined to answer it because the phone number initiating the call did not display on his phone. When the claimant initially called the Appeals Section to provide his phone number he was instructed not to wait more than five minutes after the scheduled start time for the hearing. If the judge had not called by then, he

was to contact Appeals Section with his control number. He did not explain why he waited over 40 minutes rather than five minutes as instructed.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 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 concludes the reasoning and conclusion of law in appeal 10A-UI-10591-BT should be adopted herein as though set out here in full.

The next issue is whether the record should be reopened. The judge concludes it should not.

871 IAC 26.14(7) provides:

(7) If a party has not responded to a notice of telephone hearing by providing the appeals section with the names and telephone numbers of its witnesses by the scheduled time of the hearing, the presiding officer may proceed with the hearing.

a. If an absent party responds to the hearing notice while the hearing is in progress, the presiding officer shall pause to admit the party, summarize the hearing to that point, administer the oath, and resume the hearing.

b. If a party responds to the notice of hearing after the record has been closed and any party which has participated is no longer on the telephone line, the presiding officer shall not take the evidence of the late party. Instead, the presiding officer shall inquire as to why the party was late in responding to the notice of hearing. For good cause shown, the presiding officer shall reopen the record and cause further notice of hearing to be issued to all parties of record. The record shall not be reopened if the presiding officer does not find good cause for the party's late response to the notice of hearing.

c. Failure to read or follow the instructions on the notice of hearing shall not constitute good cause for reopening the record.

The claimant received the notice of the hearing and knew the time and date it was scheduled. He provided a phone number to be contacted for the hearing. But he did not answer the phone when the administrative law judge called and did not listen to the voice mail message the judge left for more than 30 minutes. In addition, he did not follow the instructions given to him not to wait more than five minutes after the scheduled start time to contact the Appeals Section if the judge had not called by then. The claimant did not establish good cause to reopen the hearing. Therefore, the claimant's request to reopen the hearing is denied.

DECISION:

The representative's decision of July 22, 2010, reference 01, is reversed. Justin Blackwood is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible. The issue of whether the claimant must repay the unemployment benefits is remanded to UIS division for determination.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs