

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KYLE L WELTER
Claimant

AMBICA LLC
Employer

APPEAL NO. 12A-UI-12951-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 12/11/11
Claimant: Respondent (4)

Section 96.5-1 – Voluntary Quit
871 IAC 24.25(21) – Work Dissatisfaction
871 IAC 24.27 – Part-time

STATEMENT OF THE CASE:

The employer appealed a department representative's decision dated October 19, 2012, reference 04, that held claimant voluntarily quit with good cause on September 22, 2012, and benefits are allowed. A hearing was held on November 28, 2012. The claimant did not participate. Brian Patel, Owner, participated for the employer. Official Notice was taken of the employer appeal documents.

ISSUE:

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

FINDINGS OF FACT:

The administrative law judge having heard the testimony of the witness, and having considered the evidence in the record, finds that: The claimant started work on June 21, 2012 as a part-time night auditor and last worked for the employer on September 22. He completed his work shift at 7:00 p.m. on his last day, but left before his relief worker could arrive. He did not return to work.

Claimant failed to respond to the hearing notice. The department issued a decision involving another employer that denied claimant benefits. Claimant has performed work for other base period employer(s) including Menards.

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.

871 IAC 24.25(21) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(21) The claimant left because of dissatisfaction with the work environment.

The administrative law judge concludes that the claimant voluntarily quit part-time (non-base period) employment without good cause attributable to his employer when he left his job on September 22, 2012.

While claimant had an issue with his relief worker arriving late, it is not a sufficient good cause to allow benefits by quitting employment. The department record shows claimant has sufficient wage credits with base period employers to be eligible, as a voluntary quit without good cause of part-time employment is not disqualified. The employer in this matter is not charged, if claimant is otherwise eligible.

Iowa Code section 96.3-7, as amended in 2008, provides:

7. Recovery of overpayment of benefits.

a. 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.

b. (1) 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. However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment. The employer shall not be charged with the benefits.

(2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the

department to represent any employers in unemployment insurance matters. This subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

Since claimant has not received benefits on this claim there is no overpayment at this time.

DECISION:

The decision of the department representative dated October 19, 2012, reference 04, is modified. The claimant voluntary quit without good cause attributable to the employer his part-time non-base period job on September 22, 2012. Benefits are allowed, provided the claimant is otherwise eligible with base period employment earnings. The employer is not liable.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/css