

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TERENCE E THOMAS
Claimant

APPEAL NO: 06A-UI-08081-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ACE INTERNATIONAL INC
Employer

**OC: 07/02/06 R: 02
Claimant: Respondent (4-R)**

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated August 3, 2006, reference 01, that concluded the claimant voluntarily quit employment with good cause attributable to the employer. A telephone hearing was held on August 29, 2006. The parties were properly notified about the hearing. The claimant failed to participate in the hearing. Levin participated in the hearing on behalf of the employer. Official notice is taken of the Agency's records regarding the claimant's unemployment insurance claim, which the claimant's base period was from April 1, 2005, to March 31, 2006. The wages from the employer of \$546.00 were in his high quarter (first quarter 2006) and combined with wages of \$1,207.00 from the other employer. He has wages of \$741.00 in the third quarter 2005 and \$757.00 in fourth quarter 2005 from other employers. If a party objects to taking official notice of these facts, the objection must be submitted in writing no later than seven days after the date of this decision.

ISSUE:

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

FINDINGS OF FACT:

The claimant worked part time for the employer from January 3 to February 14, 2006. The claimant was off work due to an injury to his hand after February 14, 2006. He came into work on March 27, 2006, and stated that he was going to quit his job and work for his other employer. The claimant was not guaranteed any specific number of hours or days of work with the employer. During the short time the claimant worked for the employer, he rarely worked all his scheduled hours. Numerous times he left work before the end of his shift.

The claimant filed a new claim for unemployment insurance benefits with an effective date of July 2, 2006. His base period wages were as follows: \$741.00 in the third quarter 2005, \$757.00 in fourth quarter 2005, and \$1,753.00 for the first quarter 2006 (which includes \$546.00 from the employer and \$1,207.00 from the other employer).

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.

871 IAC 24.27 provides:

Voluntary quit of part-time employment and requalification. An individual who voluntarily quits without good cause part-time employment and has not requalified for benefits following the voluntary quit of part-time employment, yet is otherwise monetarily eligible for benefits based on wages paid by the regular or other base period employers, shall not be disqualified for voluntarily quitting the part-time employment. The individual and the part-time employer which was voluntarily quit shall be notified on the Form 65-5323 or 60-0186, Unemployment Insurance Decision, that benefit payments shall not be made which are based on the wages paid by the part-time employer and benefit charges shall not be assessed against the part-time employer's account; however, once the individual has met the requalification requirements following the voluntary quit without good cause of the part-time employer, the wages paid in the part-time employment shall be available for benefit payment purposes. For benefit charging purposes and as determined by the applicable requalification requirements, the wages paid by the part-time employer shall be transferred to the balancing account.

The evidence fails to establish any good cause attributable to the employer for leaving employment. No breach of contract occurred because the claimant was never guaranteed any particular number of hours of work per week.

Since the job with the employer was only part-time, the claimant is still eligible for unemployment insurance benefits since he has sufficient wages from other employers to qualify. This case is remanded to the Agency to determine the claimant's weekly benefit amount and maximum benefit amount and any overpayment due to recalculating these amounts. The employer's account is exempt from charge.

DECISION:

The unemployment insurance decision dated August 3, 2006, reference 01, is modified in favor of the employer. The employer's account is not chargeable for benefits paid to the claimant. Since the claimant quit a part-time job and has sufficient wages to qualify after the wages

from the employer are deleted, he is not disqualified. This case is remanded to the Agency to determine the claimant's weekly benefit amount and maximum benefit amount and any overpayment due to recalculating these amounts.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs