

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

CHAD J IRLMEIER
#3
1692 – 84TH ST
CLIVE IA 50325

WELLS FARGO BANK
C/o TALX EMPLOYER SERVICES
PO BOX 1160
COLUMBUS OH 43216-1160

Appeal Number: 06A-UI-00230-HT
OC: 12/04/05 R: 02
Claimant: Respondent (2)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5(1) – Quit
Section 96.3(7) – Overpayment

STATEMENT OF THE CASE:

The employer, Wells Fargo, filed an appeal from a decision dated December 30, 2005, reference 01. The decision allowed benefits to the claimant, Chad Irlmeier. After due notice was issued a hearing was held by telephone conference call on January 24, 2006. The claimant provided a telephone number of (515)633-7675. That number was dialed at 11:01 a.m. and the only response was a voice mail which clearly identified the recipients as “Chad.” A message was left indicating the hearing would proceed without the claimant’s participation unless he contacted the Appeals Section prior to the close of the record. By the time the record was closed at 11:09 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 participated by Production Manager Tom Gulbranson.

FINDINGS OF FACT:

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: Chad Irlmeier was employed by Wells Fargo from 1999 until November 7, 2005. He was a full-time production supervisor.

On November 7, 2005, the claimant gave a verbal resignation to Human Resources Representative Sherry Gomis, citing "personal problems" which caused him to conclude he might not be able to continue with the job. While in the human resources office he also contacted Production Manager Tom Gulbranson by phone and notified him of the resignation.

The claimant had also cited as one of his reasons for resigning was that he had been interviewed by Ms. Gomis on a prior occasion during an on-going investigation into an alleged breach of confidentiality. The investigation had not concluded and no decision had been made about Mr. Irlmeier's employment.

Chad Irlmeier has received unemployment benefits since filing a claim with an effective date of December 4, 2005.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified. The judge concludes he is.

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.

The claimant quit because of personal problems, and also, apparently, due to some trepidation about the future findings of the investigation about his breach of confidentiality. While this may be a good personal reason for resigning, it does not constitute good cause attributable to the employer. The claimant is disqualified.

Iowa Code section 96.3-7 provides:

7. Recovery of overpayment of benefits. 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.

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.

The claimant has received unemployment benefits to which he is not entitled. These must be recovered in accordance with the provisions of Iowa law.

DECISION:

The representative's decision of December 30, 2005, reference 01, is reversed. Chad Irlmeier is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount provided he is otherwise eligible. He is overpaid in the amount of \$1,296.00.

bgh/tjc