

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOHN D SIGNS

Claimant

APPEAL NO. 07A-UI-08659-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

GRAHAM TIRE OF DES MOINES INC

Employer

**OC: 07/29/07 R: 02
Claimant: Respondent (2)**

Section 96.5-1 – Voluntary Quit
Section 96.3- 7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

The employer filed an appeal from a decision of a representative dated August 29, 2007, reference 01, which held the claimant eligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on September 25, 2007. Although duly notified, the claimant did not participate. The employer participated by Jeff Chapman and Jim Loftus.

ISSUE:

The issue in this matter is whether the claimant voluntarily left the employment for reasons that are disqualifying and whether the claimant has been overpaid unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: The claimant last worked for this employer from December 11, 2006 until August 3, 2007 when he voluntarily left the employment. Mr. Signs held the position of general service worker/tire technician. He was employed on a full-time basis and was paid by the hour. The claimant's immediate supervisor was Jeff Chapman.

Mr. Signs left his employment on August 3, 2007 after being briefly spoken to by the manager regarding work assignments and the delegation of work to other employees. The parties had agreed that day that they would meet the following day and discuss the employer's concerns further. Mr. Signs left for lunch and did not return.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes based upon the evidence in the record that the claimant chose to voluntarily leave his employment for reasons that were not attributable to the employer. The evidence in the record establishes that Mr. Signs left his employment after being mildly

reprimanded by the facility manager regarding the work that the claimant was performing and the delegation of Mr. Signs' work through other employees. The record does not establish that Mr. Signs was treated inappropriately or that the mild reprimand was non-work-related or issued in a manner that would provide the claimant good cause for leaving. Work continued to be available to the claimant at the time that he chose to leave employment.

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.

For the reasons stated herein, the administrative law judge finds that the claimant left employment for reasons that were not attributable to the employer. Benefits are denied.

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.

Because the claimant's separation was disqualifying, benefits were paid to which the claimant was not entitled. Those benefits must be recovered in accordance with the provisions of Iowa law. The claimant is overpaid benefits in the amount of \$568.00.

DECISION:

The decision of the representative dated August 29, 2007, reference 01, is hereby reversed. The claimant voluntarily quit employment for reasons not attributable to the employer.

Unemployment insurance benefits shall be withheld until the claimant has worked in and been paid wages for insured work equal to ten times the claimant's weekly benefit amount, provided the claimant is otherwise eligible. The claimant is overpaid unemployment insurance benefits in the amount of \$568.00.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs