

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JASON A GROVES
Claimant

APPEAL NO: 08A-UI-09047-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

D H BLATTNER & SONS INC
Employer

OC: 08/24/08 R: 02
Claimant: Respondent (2/R)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

D. H. Blattner & Sons, Inc. (employer) appealed a representative's October 3, 2008 decision (reference 02) that concluded Jason A. Groves (claimant) was qualified to receive benefits because he voluntarily quit a part-time job. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 22, 2008. The claimant responded to the hearing notice, but was not available for the hearing. The employer did not respond to the hearing notice and was not called for the hearing. The claimant did not respond to the message left on his phone at 10:00 a.m. until 2:10 p.m. The claimant requested that the hearing be rescheduled. Based on the claimant's request to reopen the hearing, the administrative record, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Is there good cause to reopen the hearing?

Did the claimant voluntarily quit a part-time or full-time job for reasons that qualify him to receive benefits?

FINDINGS OF FACT:

The employer hired the claimant to work on August 13, 2008. The employer hired the claimant to work full-time. On August 23, 2008, the claimant failed to report to work. The employer concluded the claimant quit his employment. The employer had continuing work for the claimant.

The claimant established a claim for benefits during the week of August 24, 2008. The claimant filed claims for subsequent weeks and has received some unemployment insurance benefits.

The claimant responded to the hearing notice and provided his telephone number to the Appeals Section on October 9, 2008. Three months ago the claimant made an appointment to have his hand evaluated on October 22, 2008, because his hand had been injured. Even though the hearing notice indicates the hearing would be held on Wednesday, October 22, the

claimant believed the hearing was scheduled on Thursday, October 23. The claimant went to his previously scheduled appointment on October 22 and did not realize his unemployment insurance hearing was scheduled the same day, October 22. After the claimant's appointment he returned to his residence and responded to the message left at 10:00 a.m. The claimant contacted the Appeals Section at 2:10 p.m. on October 22. The claimant requested that the hearing be reopened.

REASONING AND CONCLUSIONS OF LAW:

If a party responds to a hearing notice after the record has been closed and the party who participated at the hearing is no longer on the line, the administrative law judge can only ask why the party responded late to the hearing notice. If the party establishes good cause for responding late, the hearing shall be reopened. The rule specifically states that failure to read or follow the instructions on the hearing notice does not constitute good cause to reopen the hearing. 871 IAC 26.14(7)(b) and (c).

The claimant received the hearing notice prior to the October 22 scheduled hearing and promptly responded by contacting the Appeals Section to provide the telephone number to contact him for the hearing. The claimant forgot about the evaluation he had for his hand on October 22 when he initially received the hearing notice. When the claimant remembered his October 22 evaluation appointment, he incorrectly remembered his unemployment insurance hearing was scheduled on October 23. As a result, he did not contact the Appeals Section to reschedule the hearing. The claimant was not available for the scheduled October 22 hearing.

The claimant timely received the hearing notice informing him about a scheduled October 22 hearing at 10:00 a.m. The claimant either forgot about the October 22 unemployment insurance hearing or incorrectly remembered the hearing was scheduled on October 23 instead of October 22. Even though the claimant intended to participate in the hearing, he has not established good cause to reopen the hearing. Therefore, his request to reopen the hearing is denied.

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer. Iowa Code section 96.5-1. The administrative record indicates the claimant quit his employment by failing to report to work after August 23, 2008. Although the representative's October 3, 2008 decision indicated the claimant quit a part-time job, the record establishes the employer hired the claimant to work full-time. As a result, the claimant did not establish he quit his full-time employment for reasons that qualify him to receive benefits. As of August 24, 2008, the claimant is not qualified to receive benefits.

When a claimant quits a part-time job even without good cause, he may be eligible to receive benefits if he has wage credits in his base period that make him monetarily eligible to receive benefits. 871 IAC 24.27. Since the employer hired the claimant to work full-time, this regulation does not apply to the claimant.

DECISION:

The claimant's request to reopen the hearing is denied. The representative's October 3, 2008 decision (reference 02) is reversed. The claimant voluntarily quit a full-time job. The record does not establish the claimant quit for reasons that qualify him to receive benefits. Therefore,

the claimant is disqualified from receiving unemployment insurance benefits as of August 24, 2008. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged. The issues of whether the claimant has been overpaid or is eligible for a waiver of an overpayment are remanded to the Claims Section to determine.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs