

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JESSE COADY
Claimant

APPEAL NO: 08A-UI-05225-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DES STAFFING SERVICES INC
Employer

OC: 04/20/08 R: 02
Claimant: Respondent (2)

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

STATEMENT OF THE CASE:

DES Staffing Services, Inc. (employer) appealed a representative's May 22, 2008 decision (reference 01) that concluded Jesse Coady (claimant) was qualified to receive benefits, and the employer's account was subject to charge because the claimant's employment separation occurred for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on June 16, 2008. The claimant participated in the hearing. Amy McGregor and Shane Sorenson, the district manager, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Did the claimant complete a job assignment or did he voluntarily quit his employment for reasons that qualify him to receive benefits?

Has the claimant been overpaid any benefits?

FINDINGS OF FACT:

The employer is a staffing firm. The claimant registered to work for the employer's clients on June 24, 2003. The claimant began his most recent assignment at Mid-American Recycling on October 7, 2007. In April 2008, employees at the job site started joking or making negative comments about the claimant's work performance. The claimant did not appreciate his co-workers' comments or criticism.

On April 18, the claimant walked away from a co-worker who complained about the way the claimant performed his job. The claimant went back to his forklift to work. The co-worker threw something at the claimant. The claimant stopped the forklift he operated in front of the co-worker. The claimant and co-worker then engaged in an altercation. The supervisor on duty initially told both the claimant and the other employee to go home. Before the claimant left

work, the supervisor changed his mind and told the claimant to stay. The claimant, however, left work early on April 18.

When the claimant left work on April 18, he called the employer's office and left a message to let the employer know what had happened and what the claimant had done. When the claimant talked to Sorenson on April 19, the claimant asked about another job assignment. The employer did not have another job for the claimant. The employer wanted to investigate the incident that led to the altercation. The employer understood the client assumed the claimant quit when he left work early.

The claimant established a claim for benefits during the week of April 20, 2008. The claimant filed claims for the weeks ending May 3 through June 7, 2008. He received his maximum weekly benefit amount of \$224.00 for each of these weeks.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer, or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code sections 96.5-1, 2-a. A preponderance of the evidence establishes that the claimant voluntarily quit the assignment he had been working at since October 2007. The claimant quit when he left work early after the supervisor asked him to stay and the claimant asked the employer for another job assignment the next day. The client had continuing work for the claimant. When a claimant quits, he has the burden to establish he quit for reasons that qualify him to receive benefits. Iowa Code section 96.6-2.

The law presumes a claimant voluntarily quits employment without good cause when he leaves because of dissatisfaction with the work environment. 871 IAC 24.25(21). The claimant established compelling personal reasons for quitting his employment. Even though a co-worker made negative comments about the claimant's work performance and may have carried some joking too far, the facts do not establish that the claimant worked under intolerable or detrimental working conditions. 871 IAC 24.26(4). The claimant did not establish that he quit for reasons that qualify him to receive benefits. As of April 20, 2008, the claimant is not qualified to receive benefits.

If an individual receives benefits he is not legally entitled to receive, the Department shall recover the benefits even if the individual acted in good faith and is not at fault in receiving the overpayment. Iowa Code section 96.3-7. The claimant is not legally entitled to receive benefits for the weeks ending May 3 through June 14, 2008. The claimant has been overpaid \$1,568.00 in benefits he received for these weeks.

DECISION:

The representative's May 22, 2008 decision (reference 01) is reversed. The claimant voluntarily quit his employment for reasons that do not qualify him to receive benefits. The claimant is disqualified from receiving unemployment insurance benefits as of April 20, 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 claimant has been overpaid and must repay a total of \$1,568.00 in benefits he received for the weeks ending May 3 through June 14, 2008.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs