

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

CHRISTOPHER L KOHL
2901 – 70TH ST
URBANDALE IA 50322

MURPHY OIL USA INC
c/o SHEAKLEY UNISERVICE INC
PO BOX 1160
COLUMBUS OH 43216-1160

Appeal Number: 06A-UI-00636-JTT
OC: 12/25/05 R: 02
Claimant: Respondent (2R)

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) – Voluntary Quit
871 IAC 24.27 – Voluntary Quit of Part-time Employment
871 IAC 24.25(38) – Discharge after Resignation

STATEMENT OF THE CASE:

Murphy Oil USA filed a timely appeal from the January 12, 2006, reference 01, decision that allowed benefits. After due notice was issued, a hearing was held on February 2, 2006. Claimant Christopher Kohl participated. Store Manager Kerry Lantz represented the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Christopher Kohl was employed by Murphy Oil USA as a part-time cashier until December 24, 2005. On December 17, 2005, Mr. Lantz submitted his resignation to Store Manager Kerry Lantz and advised that his last day would be January 1, 2006. Mr. Kohl quit the

employment due to a change in his living arrangements and a need to relocate. On December 24, 2005, Mr. Kohl notified Ms. Lantz that he would be absent from work because he lacked transportation, and Ms. Lantz told Mr. Kohl he was discharged from the employment.

REASONING AND CONCLUSIONS OF LAW:

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.

871 IAC 24.25(38) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(38) Where the claimant gave the employer an advance notice of resignation which caused the employer to discharge the claimant prior to the proposed date of resignation, no disqualification shall be imposed from the last day of work until the proposed date of resignation; however, benefits will be denied effective the proposed date of resignation.

Mr. Kohl voluntarily quit the employment without good cause attributable to the employer. However, before Mr. Kohl's scheduled final day, the employer discharged him from the employment. Mr. Kohl is eligible for benefits for the period of December 24 through January 1, due to the employer's early termination of the employment. Effective January 2, 2006,

Mr. Kohl's voluntary quit was a disqualifying event and Mr. Kohl is disqualified for benefits based on wage credits earned from the base period employment with Murphy Oil USA. However, because the employment Mr. Kohl quit was part-time, Mr. Kohl may be eligible for reduced benefits based on wage credits earned from base period employment other than Murphy Oil USA. This matter will be remanded for determination of Mr. Kohl's eligibility for reduced benefits and for a determination of whether and to what extent Mr. Kohl has been overpaid.

DECISION:

The Agency representative's January 12, 2006, reference 01, decision is reversed. Effective January 1, 2006, the claimant voluntarily quit the employment without good cause attributable to the employer. Because the employer discharged the claimant prior to the effective date of the quit, the claimant is eligible for full benefits for the period of December 25, 2005 through January 1, 2006, provided he is otherwise eligible. Effective January 2, 2006, the claimant is disqualified for benefits based on wages credits earned from the employment with Murphy Oil USA. Because the employment was part-time, the claimant may be eligible for reduce benefits based on other base period employment.

REMAND:

This matter is remanded for determination of the claimant's eligibility for reduced benefits and for a determination of whether and to what extent the claimant has been overpaid.

jt/kjw