

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DUSTIN R CRUM

Claimant

APPEAL NO. 10A-UI-02890-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DEWEY DODGE JEEP

Employer

OC: 01/10/10

Claimant: Respondent (2-R)

Section 96.5(1) – Voluntary Quit
Section 96.3(7) – Recovery of Overpayments

STATEMENT OF THE CASE:

Dewey Dodge Jeep (Dewey) filed an appeal from a representative's decision dated February 11, 2010, reference 02, which held that no disqualification would be imposed regarding Dustin Crum's separation from employment. After due notice was issued, a hearing was held by telephone on April 6, 2010. Mr. Crum participated personally. The employer participated by Karen Gwin, Human Resources Manager, and Doug Burke, Sales Manager.

The hearing record was left open to allow the parties an opportunity to submit telephone records. The parties were to notify the administrative law judge by April 8, 2010 if there was a problem obtaining the records. Mr. Crum failed to submit the requested records and did not notify the administrative law judge that there was a problem obtaining them. Therefore, the hearing record was closed on May 12, 2010.

ISSUE:

At issue in this matter is whether Mr. Crum was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Crum began working for Dewey on June 8, 2009 as a full-time salesman. He was considered to have abandoned his job when he stopped reporting for available work after September 21, 2009. He was scheduled off on September 22 but was to return on September 23. Because his girlfriend was having problems with her pregnancy, she was advised to remain on bed rest until further notice. Mr. Crum planned to remain home with her and return to work on September 28 but did not notify the employer of his intentions.

As of September 28, the employer still had not heard from Mr. Crum. The employer considers two consecutive unreported absences to be a voluntary quit. Continued work would have been available if Mr. Crum had continued reporting or had notified the employer of his intentions.

Mr. Crum filed a claim for job insurance benefits effective January 10, 2010. He has received a total of \$3,432.00 in benefits since filing the claim.

REASONING AND CONCLUSIONS OF LAW:

Mr. Crum abandoned his job when he stopped reporting for available work without notice. An individual who leaves employment voluntarily is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). The evidence of record failed to establish any good cause attributable to Dewey for Mr. Crum's separation.

It appears that Mr. Crum left his employment to be with his girlfriend because of the problems she was having with her pregnancy. Although he may have had good personal cause for leaving, his reason was not attributable to the employer. An individual who leaves employment due to serious family needs or responsibilities is presumed to have left without good cause attributable to the employer. 871 IAC 24.25(23). As such, Mr. Crum is not entitled to job insurance benefits.

Mr. Crum has received benefits since filing his claim. Based on the decision herein, the benefits received now constitute an overpayment. As a general rule, an overpayment of job insurance benefits must be repaid. Iowa Code section 96.3(7). If the overpayment results from the reversal of an award of benefits based on an individual's separation from employment, it may be waived under certain circumstances. An overpayment will not be recovered from an individual if the employer did not participate in the fact-finding interview on which the award of benefits was based, provided there was no fraud or willful misrepresentation on the part of the individual. This matter shall be remanded to Claims to determine if benefits already received will have to be repaid.

DECISION:

The representative's decision dated February 11, 2010, reference 02, is hereby reversed. Mr. Crum voluntarily quit his employment for no good cause attributable to the employer. Benefits are denied until he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he is otherwise eligible. This matter is remanded to Claims to determine the amount of any overpayment and whether Mr. Crum will be required to repay benefits.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/css