

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KARL R CLINKENBEARD**  
Claimant

**APPEAL NO. 09A-UI-04965-AT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ARONA CORPORATION**  
Employer

**Original Claim: 01/18/09  
Claimant: Respondent (2-R)**

Section 96.5-1 - Voluntary

**STATEMENT OF THE CASE:**

Arona Corporation, doing business as Aaron's Rental Purchase, filed a timely appeal from an unemployment insurance decision dated March 17, 2009, reference 02, that allowed benefits to Karl R. Clinkenbeard. After due notice was issued, a telephone hearing was held April 24, 2009, with Mr. Clinkenbeard participating. Lisa Ziesman participated for the employer. The administrative law judge takes official notice of Agency benefit payment records.

**ISSUE:**

Did the claimant leave work with good cause attributable to the employer?

**FINDINGS OF FACT:**

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Karl R. Clinkenbeard was employed as a delivery driver by Aaron's Rental Purchase from February 18, 2008, until he resigned on March 15, 2008. Mr. Clinkenbeard is in his 40's. His coworker was 22 years old. The coworker did not want to do the work the way Mr. Clinkenbeard did. Mr. Clinkenbeard resigned because he was afraid that he might get injured.

The claimant has received unemployment insurance benefits since filing a claim effective January 18, 2009.

**REASONING AND CONCLUSIONS OF LAW:**

The question is whether the evidence establishes that the claimant left work with good cause attributable to the employer. It does not.

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.

The claimant has the burden of proof. See Iowa Code section 96.5-1. While an individual may receive unemployment insurance benefits if he or she resigns because of unsafe working conditions, the evidence does not establish unsafe working conditions. It establishes only that the claimant was afraid that he might become injured. One who resigns because of general dissatisfaction with the job leaves work without good cause attributable to the employer. See 871 IAC 24.25(21). The administrative law judge concludes that the claimant has not established good cause attributable to the employer for the resignation. Benefits are withheld.

Iowa Code section 96.3-7, as amended in 2008, provides:

7. Recovery of overpayment of benefits.

- a. 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.

- b. (1) 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. However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment. The employer shall not be charged with the benefits.

- (2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the department to represent any employers in unemployment insurance matters. This subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

The question of whether the claimant must repay benefits he has already received is remanded to the Unemployment Insurance Services Division.

**DECISION:**

The unemployment insurance decision dated March 17, 2009, reference 02, is reversed. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The question of recovery of benefits is remanded to the Unemployment Insurance Services Division.

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Dan Anderson  
Administrative Law Judge

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Decision Dated and Mailed

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