

**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**

**MARTIN E JONES
313 N WELLER
OTTUMWA IA 52501**

**TRAVIS MECHANICAL & CONTROLS LLC
202 MULBERRY
LUCAS IA 50151**

**Appeal Number: 04A-UI-05086-DWT
OC 12/14/03 R 03
Claimant: Respondent (2)**

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 are 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
Section 96.3-7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

Travis Mechanical & Controls LLC (employer) appealed a representative's April 30, 2004 decision (reference 02) that concluded Martin E. Jones (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was not subject to charge because the claimant voluntarily quit his employment for reasons that qualify him to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 26, 2004. The claimant participated in the hearing. Bryce Travis, the vice president, 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 voluntarily quit employment without good cause?

Has the claimant been overpaid any unemployment insurance benefits?

FINDINGS OF FACT:

The claimant started working for the employer on January 12, 2004. The claimant worked as a full-time plumber. The employer told the claimant he would be paid wages every Thursday and the employer would reimburse him for any supplies he bought for the employer.

The claimant had no problems with his paycheck until March 4. The employer's computer was not working so the employer could not issue paychecks to employees on March 4. The employer intended to give the claimant and the other employees two paychecks the following week. The claimant, however, did not get caught up on his pay until the week of March 30. The claimant did not say anything to the employer about waiting to get his pay for the March 4 time period.

The claimant also turned in a receipt for supplies totaling \$12.50. While the employer reimbursed him for some supplies, the claimant did not believe the employer reimbursed him this amount. Again, the claimant did not tell the employer he had not been reimbursed for \$12.50. The employer gave him extra money when the claimant's wife picked up some supplies. The employer thought the claimant had been reimbursed for all the supplies he purchased on the employer's behalf.

The employer is a small business and the claimant wanted more hours to work. In late March the claimant went to his union hall and knew there were some jobs opening up in the next few weeks. On March 31, 2004, the employer asked the claimant how work was going and the claimant indicated everything was fine. The employer talked to the claimant about some jobs the employer had bid on.

On April 1, the claimant received all the wages he was due at that time. The claimant did not return to work for the employer after April 1. The employer learned from the union hall the claimant indicated he quit working for the employer because the employer paid him a week behind. The claimant later told the employer he quit because he needed more hours for his retirement and had a job in Des Moines. The claimant did not return to work until the week of May 9.

The claimant reopened his claim during the week of April 18, 2004. He filed claims for the weeks ending April 24 through May 8, 2004. He received his maximum weekly benefit amount of \$311.00 during 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. Iowa Code §96.5-1. The claimant voluntarily quit his employment after April 1, 2004. When a claimant quits, he has the burden to establish he quit with good cause attributable to the employer. Iowa Code §96.6-2.

The law presumes a claimant quits with good cause when he quits because of a substantial change in his employment contract. 871 IAC 24.26(1). On March 4, the employer experienced

computer problems and was unable to pay employees on March 4. The employer thought employees received two checks the following week, but for some reason the claimant's pay was not current until he received his March 4 check on March 30. The facts indicate that if the claimant had brought the fact he did not receive his March 4 wages the following week the employer would have immediately paid him so his wages were current. Even when the employer talked to the claimant about his job on March 31, the claimant indicated there were no problems and everything was fine. Unfortunately, the claimant had already started looking for another job because he wanted more hours than what the employer had him working. While wanting to work more hours is a compelling personal reason to quit, it does not qualify a claimant to receive unemployment insurance benefits. The claimant did nothing to continue his employment or to straighten out what appears to have been an unintentional oversight on the employer's behalf. The facts do not establish the claimant quit for reasons that qualify him to receive unemployment insurance benefits. As of March 28, 2004, the claimant is not qualified to receive unemployment insurance 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 §96.3-7. The claimant is not legally entitled to receive unemployment insurance benefits during the weeks ending April 24 through May 8, 2004. He has been overpaid a total of \$933.00 in benefits he received for these weeks.

DECISION:

The representative's April 30, 2004 decision (reference 02) is reversed. The claimant voluntarily quit his employment for reasons that do not qualify him to receive unemployment insurance benefits. The claimant is disqualified from receiving unemployment insurance benefits as of March 28, 2004. 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. During the weeks ending April 24 through May 8, 2004, the claimant is not legally entitled to receive unemployment insurance benefits. The claimant has been overpaid a total of \$933.00 in benefits he received for these weeks.

dlw/b