

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MATTHEW MULLINS
Claimant

APPEAL NO: 07A-UI-07641-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BICKFORD SENIOR LIVING GROUP LLC
Employer

**OC: 07/01/07 R: 03
Claimant: Appellant (4)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Matthew Mullins (claimant) appealed a representative's August 2, 2007 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits, and the account of Bickford Senior Living Group LLC (employer) would not be charged because the claimant voluntarily quit his employment for reasons that do not 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 September 6, 2007. The claimant participated in the hearing. Letha Schilling, the divisional director of operations, 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.

ISSUE:

Did the claimant voluntarily quit his employment for reasons that qualify him to receive unemployment insurance benefits, or did the employer discharge him for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on May 15, 2005. He worked full-time as the director of the Cedar Falls building. On May 1, 2007, the claimant informed the employer his last day of work would be June 1, 2007, because he was going back to school.

After the claimant submitted his resignation, the employer asked him to continue working beyond June 1. The claimant informed the employer he would work longer if the employer allowed him to work until August 10, 2007. The claimant had another job arranged to start in June if he could work the entire summer. The employer did not guarantee the claimant continued employment until August 10, but indicated that the employer would work on providing him work.

As of June 2, 2007, the claimant went from salary to an hourly wage. After Stilling indicated she would try to find work for the claimant, he concluded the employer would have work for him to

do until August 10, 2007. As a result of this understanding, the claimant continued working for the employer after June 2. On June 28, 2007, the employer informed the claimant there was no more work for him to do.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code sections 96.5-1, 2-a. The claimant voluntarily quit his employment on May 1 when he informed the employer he was resigning as of June 1.

However, after the employer asked the claimant to stay longer, the claimant agreed to work subsequent to June 1 under the condition that the employer would continue his employment until August 10, 2007. Although the employer did not guarantee the claimant work through August 10, the employer needed the claimant to work in June and told him that the employer would try to keep him employed through August 10, 2007. The claimant reasonably relied on the employer's integrity and gave up another job he had lined up for the summer to continue his employment with the employer after June 1, 2007. Since the claimant only agreed to work after June 1 if he could work through August 10, 2007, the employer tacitly accepted the terms of this employment. The employer effectively discharged the claimant on June 28 because there was no more work for the claimant to do. The claimant's subsequent employment ended on June 28, for reasons that do not constitute work-connected misconduct.

Under the facts of this case, the claimant is qualified to receive benefits for the weeks ending July 7 through August 11, 2007, if he has met all other eligibility requirements. The law presumes a claimant has left employment for reasons that do not qualify him to receive benefits if he quits to attend school. 871 IAC 24.25 (26). As of August 12, 2007, the claimant is not qualified to receive unemployment insurance benefits.

DECISION:

The representative's August 2, 2007 decision (reference 01) is modified in the claimant's favor. The claimant voluntarily quit his employment for reasons that do not qualify him to receive unemployment insurance benefits. However, the effective date of his resignation was modified in early June. The employer knew and accepted the claimant's condition of further employment until August 10. When the employer's work ended, the claimant's employment ended on June 28, 2007, for nondisqualifying reasons. Therefore, the claimant is qualified to receive unemployment insurance benefits for the weeks ending July 7 through August 11, provided he meets all other eligibility requirements. As of August 12, 2007, the claimant is not qualified to receive benefits. 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 is subject to charge for benefits the claimant may receive for the weeks ending July 7 through August 11, 2007. As of August 12, 2007, the employer's account is not subject to charge based on benefits the claimant may receive subsequent to August 12, 2007.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs