

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TONY STOCKS

Claimant

APPEAL NO. 10A-UI-15131-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

1ST CALL LAWN CARE LLC

Employer

OC: 08-22-10

Claimant: Respondent (4)

Section 96.5-1 –Voluntary Leaving

STATEMENT OF THE CASE:

The employer filed a timely appeal from the October 25, 2010, reference 04, decision that allowed benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on December 17, 2010. The claimant participated in the hearing. Jason Thompson, President, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant voluntarily left his employment.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time laborer for 1st Call Lawn Care from April 12, 2010 to September 27, 2010. Continued work was available. The claimant left employment with 1st Call Lawn Care, LLC to accept other employment at Fosters but separated from Fosters before starting his new job.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment to accept employment elsewhere.

Iowa Code section 96.5-1-a 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. But the individual shall not be disqualified if the department finds that:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

871 IAC 24.28(5) provides:

Voluntary quit requalifications and previously adjudicated voluntary quit issues.

(5) The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment.

Even though the separation was without good cause attributable to the employer and would, standing alone, disqualify the claimant from receiving benefits, the claimant did leave in order to accept other employment. Accordingly, benefits are allowed and the employer's account shall not be charged.

DECISION:

The October 25, 2010, reference 04, decision is modified in favor of the appellant. The claimant voluntarily left his employment in order to accept other employment. Benefits are allowed, provided the claimant is otherwise eligible. The employer's account shall not be charged.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/kjw