

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**ALEX C KRETZ**  
Claimant

**CAL-CO SPRAY COATINGS INC**  
Employer

**APPEAL 18A-UI-01384-DL-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 01/14/18**  
**Claimant: Respondent (4)**

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Iowa Code § 96.5(1)a – Voluntary Quitting – Other Employment  
Iowa Code § 96.5(3)a – Failure to Accept Work

**STATEMENT OF THE CASE:**

The employer filed an appeal from the January 25, 2018, (reference 02) unemployment insurance decision that allowed benefits based upon a work refusal outside of his benefit year. The Benefits Bureau did not set a fact-finding interview for the separation issue. The parties were properly notified about the hearing. A telephone hearing was held on February 23, 2018. Claimant participated. Employer participated through office manager Michelle Pierce.

**ISSUES:**

Did claimant fail to accept a suitable offer of work and if so, was the failure to do so for a good cause reason?

Did claimant voluntarily quit the employment with good cause attributable to employer?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Upon the receipt of the January 14, 2018, notice of claim, Pierce checked the “Refused suitable work” box on the protest form and wrote, “Alex advised he wasn’t coming into work because it’s too cold back in 2016, and has never attempted to come back to work.” In spite of this information, the Benefits Bureau failed to set a fact-finding interview on the issue of the separation from employment, so the matter is addressed here.

Claimant was employed through December 16, 2016, when he quit to take other employment with Dubuque Steel Products. Regardless of the reason for the separation or any work refusal, the administrative record clearly reflects that he requalified for benefits before the next unemployment insurance benefits claim.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes no offer of work was actually communicated to claimant, but he quit to accept other employment and has requalified for benefits.

Iowa Code section 96.5(3)a provides, in pertinent part:

An individual shall be disqualified for benefits:

3. *Failure to accept work.* If the department finds that an individual has failed, without good cause, either to apply for available, suitable work when directed by the department or to accept suitable work when offered that individual.

Since no offer of work was actually made, the issue of the separation is addressed and the administrative law judge concludes the claimant voluntarily left the employment to accept employment elsewhere.

Iowa Code section 96.5(1)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

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 and did perform services for the subsequent employer. Accordingly, benefits are allowed and the account of the employer shall not be charged.

**DECISION:**

The January 25, 2018, (reference 02) unemployment insurance decision is modified in favor of the appellant. Employer did not communicate an offer of work to claimant, rather claimant voluntarily left the employment in order to accept other employment. Benefits are allowed, provided the claimant is otherwise eligible. The account of this employer (account number 530699) shall not be charged.

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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

dml/rvs