

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

RUSSELL D KNOCK  
PO BOX 65  
HOPKINTON IA 52237

ORBIS CORPORATION  
c/o TALX UC EXPRESS  
PO BOX 283  
ST LOUIS MO 63166-0283

Appeal Number: 04A-UI-06645-RT  
OC: 03/21/04 R: 04  
Claimant: Appellant (4)

**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, 4<sup>th</sup> 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 is 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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant, Russell D. Knock, filed a timely appeal from an unemployment insurance decision dated June 9, 2004, reference 01, denying unemployment insurance benefits to him. After due notice was issued, a telephone hearing was held on July 12, 2004, with the claimant participating. Cathy J. Arduser, Human Resources, participated in the hearing for the employer, Orbis Corporation. This appeal was consolidated with Appeal 04A-UI-07475-RT for the purposes of the hearing with the consent of the parties. The administrative law judge takes official notice of Iowa Workforce Development Department unemployment insurance records for the claimant.

#### 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: The claimant was employed by the employer as a full-time temporary press operator or injection molder from May 4, 2004 until he voluntarily quit on May 7, 2004. The claimant worked only two days for the employer, May 4 and 5, 2004 and was then off work on May 6, 2004 and quit on May 7, 2004. On May 7, 2004, the claimant called the employer's witness, Cathy J. Arduser, Human Resources, and told her that he was quitting. The claimant returned his toolbox. The claimant explained that he quit because he did not like the work or his job. When he was hired, he was informed that the job would be temporary and would end at the end of August of 2004. When the claimant quit, work remained available for him through the end of August 2004. During the time that he would have worked, the work would have been full time. The claimant also felt that he was not doing a good job for the employer, but the employer had never informed the claimant otherwise or told the claimant that he was to be discharged. The claimant did not express any concerns to the employer about these matters nor did he indicate or announce an intention to quit prior to his quit.

#### REASONING AND CONCLUSIONS OF LAW:

The question presented by this appeal is whether the claimant's separation from employment was a disqualifying event. It was, until August 31, 2004 or benefit week ending August 28, 2004.

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.

871 IAC 24.25(21) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

- (21) The claimant left because of dissatisfaction with the work environment.

871 IAC 24.25(33), (40) provide:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence

that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(33) The claimant left because such claimant felt that the job performance was not to the satisfaction of the employer; provided, the employer had not requested the claimant to leave and continued work was available.

(40) Where the claimant voluntarily quit in advance of the announced scheduled layoff, the disqualification period will be from the last day worked to the date of the scheduled layoff. Benefits shall not be denied from the effective date of the scheduled layoff.

The parties concede that the claimant left his employment voluntarily. The issue then becomes whether the claimant left his employment without good cause attributable to the employer. The administrative law judge concludes that the claimant has the burden to prove that he has left his employment with the employer herein, with good cause attributable to the employer. See Iowa Code Section 96.6-2. The administrative law judge concludes that the claimant has failed to meet his burden of proof to demonstrate by a preponderance of the evidence that he left his employment with the employer herein with good cause attributable to the employer. Both parties testified similarly and credibly and candidly that the claimant left his employment simply because he did not like the job and he hated the work. The claimant did say that he also felt that he was not doing a good job, but there was no evidence that the employer had indicated this to the claimant or that the claimant was facing discharge. Leaving work because of dissatisfaction with the work environment or because one feels that the job performance was not to the satisfaction of the employer is not good cause attributable to the employer if the employer has not requested that the person leave and continued work was available. Both parties agree that continued work remained available for the claimant at least through August 2004. The claimant also never expressed any concerns to the employer or announced or indicated an intention to quit if any of his concerns were not addressed. Accordingly, the administrative law judge concludes that the claimant left his employment voluntarily without good cause attributable to the employer and, as a consequence, he is disqualified to receive unemployment insurance benefits.

However, the evidence does establish that the claimant's work was temporary and would be over at the end of August 2004. Both parties conceded this. When the claimant voluntarily quits in advance of an announced scheduled lay off, the disqualification period will be from the last day worked to the day of the scheduled lay off. Benefits shall not be denied from the effective date of the scheduled lay off. The administrative law judge concludes that, in effect, here there was an announced scheduled lay off of the claimant at the end of August or August 31, 2004. Accordingly, the administrative law judge concludes that the claimant is disqualified to receive unemployment insurance benefits through August 31, 2004 or benefit week ending August 28, 2004. Thereafter, beginning with benefit week ending September 4, 2004, the claimant would be entitled to receive unemployment insurance benefits provided he is otherwise eligible.

The claimant testified that he had both consulted his local workforce development office and the workforce development office in Des Moines, Iowa. He was told that if he did not work three or four weeks he had not established employment and he could quit his employment and begin receiving benefits again. The claimant had been receiving benefits prior to this employment. The administrative law judge is not without sympathy for the claimant for getting this information

from Workforce Development, but the administrative law judge is aware of no specific rule or statute that provides that one can quit employment without good cause attributable to the employer at any particular time and then draw unemployment insurance benefits unless it is part-time employment or there is an announced scheduled lay off.

DECISION:

The representative's decision dated June 9, 2004, reference 01, is modified. The claimant, Russell D. Knock, is not entitled to receive unemployment insurance benefits through August 31, 2004 or benefit week ending August 28, 2004, until or unless he requalifies for such benefits, because he left his employment voluntarily without good cause attributable to the employer. Because the claimant was facing an announced scheduled lay off or termination of his employment on August 31, 2004, the claimant would be entitled to receive unemployment insurance benefits beginning with benefit week ending September 4, 2004 and continuing thereafter provided he is otherwise eligible.

kjf/tjc