

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KERRY L PORTER
Claimant

APPEAL NO. 14A-UI-07722-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

ACKERMAN INVESTMENT COMPANY
Employer

OC: 06/29/14
Claimant: Appellant (2)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Kerry Porter (claimant) appealed a representative's July 18, 2014, decision (reference 01) that concluded he was not eligible to receive unemployment insurance benefits because he voluntarily quit work with Ackerman Investment Company (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for August 19, 2014. The claimant participated personally. The employer participated by Lonnie Bacon, General Manager.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on September 12, 2013, as a full-time maintenance man. On February 6, 2014, the claimant notified the employer he was resigning effective February 20, 2014, to work at Nestle Purina, in Fort Dodge, Iowa. Continued work was available had the claimant not resigned. The claimant started work at Nestle Purina on February 24, 2014, earning \$7.00 more per hour than he did with the employer. In addition, he received benefits with his job. The claimant continues to work for Nestle Purina. He had one week of lay off from June 24 through 28, 2014.

REASONING AND CONCLUSIONS OF LAW:

For the following reasons the administrative law judge concludes the claimant is eligible to receive unemployment insurance benefits after his separation from work.

Iowa Code § 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.

Iowa Admin. Code r. 871-24.28(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. The employment does not have to be covered employment and does not include self-employment.

The claimant was paid by the employer until another employer paid his wages. In essence the claimant left his position with the employer to work for another employer. When an employee quits work to take other employment, he is not disqualified from receiving unemployment insurance benefits. The claimant quit work to take other employment. He voluntarily quit without good cause attributable to the employer. Benefits are allowed because the claimant left to take other employment. The employer will not be charged.

DECISION:

The representative's July 18, 2014, decision (reference 01) is reversed. The claimant voluntarily left work without good cause attributable to the employer. The claimant is not disqualified from receiving unemployment insurance benefits because he quit to take other employment. The employer will not be charged.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/pjs