

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**AARON L FRANCIS**  
Claimant

**APPEAL NO. 12A-UI-15150-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SCHWAN'S HOME SERVICE INC**  
Employer

**OC: 11/25/12**  
**Claimant: Respondent (2-R)**

Section 96.5(1) – Quit

**STATEMENT OF THE CASE:**

The employer, Schwan's, filed an appeal from a decision dated December 17, 2012, reference 01. The decision allowed benefits to the claimant, Aaron Francis. After due notice was issued a hearing was held by telephone conference call on January 29, 2013. The claimant did not provide a telephone number where he could be contacted and did not participate. The employer participated by Territory Sales Leader Christine Craig.

**ISSUE:**

The issue is whether the claimant quit work with good cause attributable to the employer.

**FINDINGS OF FACT:**

Aaron Francis was employed by Schwan's from December 12, 2011 until October 12, 2012 as a full-time route sales representative. Mr. Francis gave a verbal resignation to Territory Sales Leader Christine Craig stating he had accepted another job with a trucking company. Continuing work was still available to him with Schwan's had he elected not to resign.

Sometime in November 2012 the claimant contacted Ms. Craig and asked for his job back because the new employment did not work out.

Aaron Francis has received unemployment benefits since filing a claim with an effective date of November 25, 2012. The employer did not know the name of the trucking company or its location.

**REASONING AND CONCLUSIONS OF LAW:**

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.

The claimant notified the employer he was quitting to accept other employment. But there is no evidence of any other employment. When he filed for benefits Mr. Francis indicated Schwan's was his last employer without any mention of a subsequent employment.

Without evidence the claimant worked for another employer after quitting Schwan's, it cannot be determined he requalified under the provisions of the above Code section. Therefore, he is disqualified.

Iowa Code section 96.3-7, as amended in 2008, provides:

7. Recovery of overpayment of benefits.

a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

b. (1) If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5. However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment. The employer shall not be charged with the benefits.

(2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the department to represent any employers in unemployment insurance matters. This subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

The claimant has received unemployment benefits to which he is not entitled. The question of whether the claimant must repay these benefits is remanded to the UIS division.

**DECISION:**

The representative's decision of December 17, 2012, reference 01, is reversed. Aaron Francis is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount in insured work, provided he is otherwise eligible. The issue of whether the claimant must repay the unemployment benefits is remanded to UIS division for determination.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

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