

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MATT T DAVIS
Claimant

RON ENNEN
E FARMS LLC
Employer

APPEAL 16A-UI-12999-DL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 07/17/16
Claimant: Appellant (4)

Iowa Code § 96.5(1) – Voluntary Quitting – Layoff Due to Lack of Work
Iowa Admin. Code r. 871-24.1(113) – Definitions – Separations
Iowa Code § 96.19(16)/ – Definitions – Employer – Agricultural Labor
Iowa Admin. Code r. 871-23.8(3) – Contributions – Agricultural Employer

STATEMENT OF THE CASE:

The claimant filed an appeal from the December 2, 2016, (reference 03) unemployment insurance decision that denied benefits based upon voluntarily quitting the employment. The parties were properly notified about the hearing. A telephone hearing was held on December 30, 2016. Claimant participated. Employer participated through E Farms LLC manager Ron Ennen and manager Debra Ennen, and was represented by Benjamin Ennen, Attorney at Law.

ISSUES:

Did claimant voluntarily leave the employment with good cause attributable to the employer or did employer discharge the claimant for reasons related to job misconduct sufficient to warrant a denial of benefits?
Is the agricultural employment considered 'covered' or 'insured work'?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed as a full-time seasonal truck driver and laborer from September 27, 2016, through November 3, 2016. His last day of work was November 3, 2016. He did not return to work after that date even though continued work was available. The employer did not discharge him or tell him there was no more work. Other employees continued working. For unemployment insurance purposes the employer, E Farms LLC, is an exempt agricultural entity, employs fewer than ten people, pays less than \$20,000.00 in wages per year and does not report quarterly wages to IWD. Ennen also has a business Tripoli Farm Supply LLC at the same address with an unemployment insurance tax account number 572266 and FEIN 45-4712468.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment is moot.

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.

Iowa Code section 96.19(16) provides:

96.19 Definitions.

As used in this chapter, unless the context clearly requires otherwise:

16. "*Employer*" means:

I. An employing unit employing agricultural labor after December 31, 1977, if the employing unit:

- (1) Paid during any calendar quarter in the calendar year or the preceding calendar year wages of twenty thousand dollars or more for agricultural labor, or
- (2) Employed on each of some twenty days during the calendar year or during the preceding calendar year, each day being in a different calendar week, at least ten individuals in employment in agricultural labor for some portion of the day.

Iowa Admin. Code r. 871-23.8(3) provides:

Due date of quarterly reports and contributions.

23.8(3) Due date for new employer. The first contribution payment of any employer who becomes newly liable for contributions in any year shall become due and payable on the last day of the month following that quarter wherein occurred the twentieth calendar week, during the calendar year within which a total of one or more workers were employed on any one day, or the last day of the month following that calendar quarter in which a total of \$1,500 in wages was paid. The first payment of such an employer becoming liable in the course of a calendar year shall include contributions with respect to all wages paid for employment from the first day of the calendar year.

a. The first contribution payment of any agricultural employer who becomes newly liable for contributions in any year will become due and payable on the last day of the month following that quarter wherein occurred the twentieth calendar week, during the calendar year within which a total of ten or more workers were employed on any one day, or the last day of the month following that calendar quarter in which a total of \$20,000 in wages was paid. The first payment of such an employer becoming liable in the course of a calendar year shall include contributions with respect to all wages paid for employment from the first day of the calendar year.

Because the employment was not covered, the reason for the separation is moot and neither qualifying nor disqualifying.

DECISION:

The December 2, 2016, (reference 03) unemployment insurance decision is modified in favor of the appellant. Claimant voluntarily left the employment without good cause attributable to the employer, however the employment is not covered so this separation is moot to his eligibility or qualification for unemployment insurance benefits. Benefits are allowed, provided he is otherwise eligible. Because the employer is exempt and has no account, chargeability is moot as well.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/rvs