

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BRADLEY M JOHNSON
Claimant

APPEAL NO. 09A-UI-17860-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MENARD INC
Employer

**Original Claim: 10/25/09
Claimant: Appellant (4-R)**

Section 96.5-1 - Voluntary Quit
871 IAC 24.27 - Voluntary Quit of Part-Time Job

STATEMENT OF THE CASE:

Bradley M. Johnson appealed an unemployment insurance decision dated November 24, 2009, (reference 03), that concluded he was not eligible to receive unemployment insurance benefits after a separation from employment from Menard, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on January 8, 2010. The claimant participated in the hearing. Troy Meyers appeared on the employer's behalf and presented testimony from two other witnesses, Lyle Cole and Angela Pross. Administrative notice is being taken of the Agency's wage records. If either party objects to the use of the Agency's wage records, the objection must be made in writing within seven calendar days of the date of this decision. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

FINDINGS OF FACT:

The claimant worked part-time approximately 15 to 20 hours per week for the employer as a part-time morning stock person from May 7, 2009 until about September 20, 2009. On September 20 he accepted and began working a full time job with another employer, working at least full-time Monday through Friday. On about September 27 the claimant was moved to a sales position with the employer working only every other weekend, about a half-day per week on average.

The claimant's last day of work was October 17, 2009. The employer had given him a reprimand when the claimant came in for his shift regarding an unwanted communication with a coworker, but he was not being discharged. The claimant determined a short time later that day that he was unable to maintain the balance between working for the employer and his new full-time job, which had occasionally required weekend work causing him to miss work with the employer. As a result, he left the employer and subsequently called and left a message confirming he was quitting. He did not specifically mention to the employer that he was leaving because of the inability to work both jobs, as compared to because the reprimand had been given.

A little more than a week later, on or about October 26 the claimant was laid off from his new full-time job; he then filed to establish an unemployment insurance benefit year effective October 25, 2009.

The employer paid the claimant \$514.00 in wages during the second quarter of 2009, which when combined with the wages from other employers was the claimant's highest quarter of earnings during his base period. His weekly benefit amount was determined to be \$420.00, based on his wages in the second quarter of 2009.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant is disqualified from receiving unemployment insurance benefits because he voluntarily quit employment without good cause attributable to the employer.

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 24.27 provides:

Voluntary quit of part-time employment and requalification. An individual who voluntarily quits without good cause part-time employment and has not requalified for benefits following the voluntary quit of part-time employment, yet is otherwise monetarily eligible for benefits based on wages paid by the regular or other base period employers, shall not be disqualified for voluntarily quitting the part-time employment. The individual and the part-time employer which was voluntarily quit shall be notified on the Form 65-5323 or 60-0186, Unemployment Insurance Decision, that benefit payments shall not be made which are based on the wages paid by the part-time employer and benefit charges shall not be assessed against the part-time employer's account; however, once the individual has met the requalification requirements following the voluntary quit without good cause of the part-time employer, the wages paid in the part-time employment shall be available for benefit payment purposes. For benefit charging purposes and as determined by the applicable requalification requirements, the wages paid by the part-time employer shall be transferred to the balancing account.

The claimant voluntarily quit employment without good cause attributable to the employer. The job, however, was part-time, and the claimant has sufficient wages from other employers to qualify to receive unemployment insurance benefits. The employer's account will not be subject to charge for benefits paid to the claimant. This matter is remanded to the Agency for any necessary recalculation of the claimant's weekly benefit amount and any overpayment that results from that recalculation.

DECISION:

The unemployment insurance decision dated November 24, 2009 (reference 03), is modified in favor of the claimant. The claimant is not disqualified and the employer's account is not subject to charge, because the claimant voluntarily quit part-time employment without good cause attributable to the employer. This matter is remanded to the Agency for a recalculation of the claimant's weekly benefit amount and any overpayment that might result from that recalculation.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/kjw