

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ALLAN J BILLMEYER
Claimant

APPEAL NO. 09A-UI-09629-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

AGRIPROCESSORS INC
Employer

OC: 11/16/08
Claimant: Respondent (4)

Section 96.5(1) – Quit
Section 96.3(7) – Overpayment

STATEMENT OF THE CASE:

The employer, Agriprocessors, filed an appeal from a decision dated June 24, 2009, reference 02. The decision allowed benefits to the claimant, Allan Billmeyer. After due notice was issued, a hearing was held by telephone conference call on July 21, 2009. The claimant participated on his own behalf. The employer participated by Human Resources Assistant Laura Althouse and Human Resources Manager Diana Guerrero.

ISSUE:

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

FINDINGS OF FACT:

Allan Billmeyer was employed by Agriprocessors from February 12, 2006 until December 28, 2008, as a full-time production manager. On December 21, 2008, the claimant notified Operations Manager Brent Beebe he would be quitting effective December 24, 2008, for military duty. Mr. Beebe asked him to stay longer until someone could be trained to take his position. In the meantime the claimant had gone to Human Resources Manager Elizabeth Billmeyer to ask for a leave of absence form for his military duty. She told him she would get him the form but she never did in spite of repeated requests for one.

On December 28, 2008, the production line was down and the workers were told it would not be working again for about six hours. Mr. Billmeyer talked with Mr. Beebe and other managers and asked if he could go home since there was no point in standing around. He was granted permission and left. He entered his national guard duty January 6, 2009, and completed it April 25, 2009. On May 10, 2009, he contacted the Trent Gordon, the new human resource manager, and asked about returning to work. He was told he should “move on and find another job.”

Allan Billmeyer filed a claim for unemployment benefits with an effective date of April 26, 2009.

REASONING AND CONCLUSIONS OF LAW:

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.

The claimant notified his managers and the human resources department of his intention to leave for military duty. The employer did not provide him with the proper forms to fill out for a leave of absence, but the managers were aware of the situation. He returned from military duty and contacted the employer to return to work but no work was available to him. Under the provisions of 871 IAC 24.26(25) this is not a disqualifying separation.

Due to the fact the claimant filed for unemployment benefits prior to requesting to return to work he would not be eligible for benefits for the two-week period ending May 9, 2009, because he did not make himself available to his employer until May 10, 2009.

DECISION:

The representative's decision of June 24, 2009, reference 02, is modified in favor of the appellant . Allan Billmeyer is qualified for benefits, provided he is otherwise eligible effective May 10, 2009. He is overpaid in the amount of \$760.00.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css