BEFORE THE EMPLOYMENT APPEAL BOARD Lucas State Office Building Fourth floor Des Moines, Iowa 50319

WILLIAM A YAKES	
Claimant	: HEARING NUMBER: 15B-UI-03371
and	EMPLOYMENT APPEAL BOARD
LOWE'S HOME CENTERS INC	: DECISION
Employer	

N O T I C E

THIS DECISION BECOMES FINAL unless (1) a **request for a REHEARING** is filed with the Employment Appeal Board within **20 days** of the date of the Board's decision or, (2) a **PETITION TO DISTRICT COURT** IS FILED WITHIN **30 days** of the date of the Board's decision.

A REHEARING REQUEST shall state the specific grounds and relief sought. If the rehearing request is denied, a petition may be filed in **DISTRICT COURT** within **30 days** of the date of the denial.

SECTION: 96.5-1, 96.3-7

DECISION

UNEMPLOYMENT BENEFITS ARE ALLOWED IF OTHERWISE ELIGIBLE

The Claimant appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board reviewed the entire record. The Appeal Board finds it cannot affirm the administrative law judge's decision. The Employment Appeal Board **REVERSES** as set forth below.

FINDINGS OF FACT:

William Yakes (Claimant) worked for Lowe's Home Centers, Inc. (Lowe's) from October 2, 2014 until he quit on November 7, 2014 to take a job in Cedar Rapids. After quitting he did work that new job. He subsequently experienced a period of unemployment and filed an initial claim for benefits during the week starting on January 4, 2015.

REASONING AND CONCLUSIONS OF LAW:

This case involves a voluntary quit. Iowa Code Section 96.5(1) states:

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.

Even where a claimant quits but without good cause attributable to the employer the claimant may nevertheless collect benefits under certain circumstances. One of these is where the quit is for the purpose of accepting other employment. On this issue the Code provides:

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 Code §96.5(1)(a). Here the Claimant was dissatisfied at Lowe's and began looking for other work. He quit only when he had another job. We think this satisfies the requirements of the statute, and benefits are allowed.

Finally, in cases of quitting for different employment "[b]enefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund." Iowa Code §95.5(1)(a). The upshot is that Lowe's will not be charged for any benefits that we allow today. Since Lowe's Home Centers was the employer whom the Claimant quit in order to take another job under the law **Lowe's Home Centers' account may not be charged** with benefits paid to the Claimant. Iowa Code §96.5(1)(a); 871 IAC 23.43(5)(no charge to prior employer when quit for other or better job).

DECISION:

The administrative law judge's decision dated April 23, 2015 is **REVERSED**. The Employment Appeal Board concludes that the claimant was not separated from employment in a manner that would disqualify the Claimant from benefits. Accordingly, the Claimant is allowed benefits **provided** the Claimant is otherwise eligible. Any overpayment which may have been entered against the Claimant as a result of the Administrative Law Judge's decision in this case is vacated and set aside.

Kim D. Schmett

Ashley Koopmans

James M. Strohman

RRA/ss
DATED AND MAILED

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