

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JESSE J LEAFTY

Claimant

APPEAL NO. 07A-UI-08722-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

AMERICAN GAMES INC

Employer

**OC: 07/29/07 R: 01
Claimant: Appellant (2)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated September 6, 2007, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on September 26, 2007. Claimant participated. Employer participated by Jennifer Coe, TALX Hearing Representative with witnesses Kari Hockeneier, Human Resource Manager and Craig Kohn, Vice President Manufacturing. Exhibit One was admitted into evidence.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on July 31, 2007. Claimant turned in his resignation on July 16, 2007. Employer accepted the resignation. Claimant had a new job lined up to start July 20, 2007. Claimant was to be paid a higher wage at the new job. Before claimant could start work at the new job a hiring freeze was imposed. Claimant went back to the employer to ask for his job back but the decision had been made to eliminate the position. Claimant was allowed to work until July 31, 2007.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because of better employment. Quitting for better work is not cause attributable to employer.

However a quit for better work does qualify claimant for benefits since the job was retracted prior to claimant starting work. Benefits allowed. Employer's account shall not be charged.

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.

871 IAC 24.28(5) provides:

Voluntary quit requalifications and previously adjudicated voluntary quit issues.

(5) The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment.

DECISION:

The decision of the representative dated September 6, 2007, reference 01, is reversed. Unemployment insurance benefits are allowed provided claimant is otherwise eligible. Employer's account shall not be charged for benefits. The credits shall be transferred to the unemployment compensation fund in accordance with the above rules and statutory sections.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/css