

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TIMOTHY R JAMES
Claimant

APPEAL NO. 09A-UI-15450-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

PROGRESSIVE FOUNDRY INC
Employer

OC: 05/03/09
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 29, 2009, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on January 5, 2010. Claimant participated. Employer participated by Pete VanKirk, president. The record consists of the testimony of Timothy James; the testimony of Pete VanKirk; and Claimant's Exhibit A.

ISSUE:

The issue is whether the claimant is eligible to receive unemployment insurance benefits after his separation from employment.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The employer is a foundry that pours cast iron for parts. The claimant was hired on February 26, 2007, as a fork lift operator and then transferred to the maintenance department. The claimant's last day of work for the employer was August 7, 2009. The claimant voluntarily quit his job on August 10, 2009, to go to work for another employer—TB & J. Work was available at Progressive Foundry at the time the claimant quit. The claimant worked for TB & J from August 10, 2009, through August 20, 2009. He was then released due to lack of work. (Claimant's Exhibit A).

REASONING AND CONCLUSIONS OF LAW:

For the following reasons the administrative law judge concludes the claimant is eligible to receive unemployment insurance benefits.

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.

The claimant left his position with the employer on August 10, 2009 to work for another employer starting August 10, 2009. When an employee quits work to take other employment, he is not disqualified from receiving unemployment insurance benefits. The claimant quit work to take other employment. He voluntarily quit without good cause attributable to the employer. Benefits are allowed because the claimant left to take other employment. The employer will not be charged.

DECISION:

The representative's September 29, 2009, decision (reference 01) is reversed. The claimant voluntarily left work without good cause attributable to the employer. The claimant is not disqualified from receiving unemployment insurance benefits because he quit to take other employment. The employer will not be charged.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/pjs