

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KALE P FREILINGER
Claimant

APPEAL NO. 14A-UI-03008-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

LUTHER COLLEGE
Employer

**OC: 01/05/14
Claimant: Appellant (5)**

Section 96.5-1 – Voluntary Leaving
871 IAC 24.26(22) – Voluntary Leaving
Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Kale Freilinger (claimant) appealed a representative's March 12, 2014, decision (reference 01) that concluded he was not eligible to receive unemployment insurance benefits for weeks between successive academic terms with Luther College (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for April 10, 2014. The claimant participated personally. The employer participated by Lora Steil, Director of Human Resources.

ISSUES:

The issue is whether the claimant was separated from employment for any disqualifying reason and whether he is able and available for work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on May 16, 2013 as a full-time janitor. He was to work until August 30, 2013. The claimant completed his work assignment and no other work was available through this employer. The claimant started school as a full-time student on September 3, 2013.

REASONING AND CONCLUSIONS OF LAW:

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

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 24.26(22) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(22) The claimant was hired for a specific period of time and completed the contract of hire by working until this specific period of time had lapsed. However, this subrule shall not apply to substitute school employees who are subject to the provisions of Iowa Code section 96.4(5) which denies benefits that are based on service in an educational institution when the individual declines or refuses to accept a new contract or reasonable assurance of continued employment status. Under this circumstance, the substitute school employees shall be considered to have voluntarily quit employment.

Inasmuch as the claimant completed the contract of hire with the employer, no disqualification is imposed.

The next issue is whether the claimant is available for work.

871 IAC 24.23(5) provides:

(5) Full-time students devoting the major portion of their time and efforts to their studies are deemed to have no reasonable expectancy of securing employment except if the students are available to the same degree and to the same extent as they accrued wage credits they will meet the eligibility requirements of the law.

When an employee is a full-time student, he is considered to be unavailable for work. The claimant is a full-time student. He is considered to be unavailable for work after September 3, 2014. The claimant is disqualified from receiving unemployment insurance benefits beginning September 3, 2013, due to his unavailability for work.

DECISION:

The representative's March 12, 2014 decision (reference 01) is modified with no effect. The claimant's separation from employment was for no disqualifying reason. However the claimant is not available for work due to his status as a full-time student.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/pjs