

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROBERT J KUNKLE
Claimant

APPEAL NO. 12A-UI-06396-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WATERLOO COMMUNITY SCHOOL DIST
Employer

OC: 04/29/12
Claimant: Appellant (1)

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The claimant, Robert Kunkle, filed an appeal from a decision dated May 21, 2012, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on July 2, 2012. The claimant participated on his own behalf. The employer, Waterloo Community School District (Waterloo), participated by Associate Superintendent Beverly Smith.

ISSUE:

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

FINDINGS OF FACT:

Robert Kunkle was employed by Waterloo from August 19, 2002 until April 30, 2012 as a full-time special needs teacher. On April 5, 2012, he submitted a written resignation to the superintendent's office without specifying a reason. At the hearing he indicated he was simply burned out teaching special needs students.

On April 30, 2012, the employer notified him he was being released effective that day instead of in May at the end of the school year. This was because Mr. Kunkle had allowed his teaching certification to expire and it would be invalid as of May 1, 2012.

Mr. Kunkle had been aware his certification would expire because he had not kept accurate records of the number of continuing education hours he had taken in the past five years needed to keep the certification valid. He had asked the school district to give him an extension but the superintendent refused because it was not due to any extenuating circumstances, such as prolonged illness, which would have warranted an extension.

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.

871 IAC 24.25(38) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(38) Where the claimant gave the employer an advance notice of resignation which caused the employer to discharge the claimant prior to the proposed date of resignation, no disqualification shall be imposed from the last day of work until the proposed date of resignation; however, benefits will be denied effective the proposed date of resignation.

The claimant maintains he was discharged but this is not correct. He had resigned on April 5, 2012. Although he intended to teach through the end of the academic year in May 2012, the employer could not legally keep him employed after the end of April because he had allowed his teaching certification to expire. Mr. Kunkle seems to feel it was the responsibility of the employer to fix this situation by granting him an extension to get the necessary credits but this is not the case. Each professional is responsible to keep track of his or her licensing requirements and the number of hours accumulated.

Releasing Mr. Kunkle from his teaching job prior to the end of the school year was because he did not have the proper certification to do so. The release was not due to the fact he had turned in his resignation. The quit was without good cause attributable to the employer and the early release was due to the claimant's own failure to keep his license active.

The record establishes the claimant is disqualified.

DECISION:

The representative's decision of May 21, 2012, reference 01, is affirmed. Robert Kunkle is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount in insured work, provided he is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs