

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**KENNETH B MILLER
9740 CADY AVE
OMAHA NE 68134-5644**

**GOODKIND & GOODKIND DIRECT INC
300 LOCUST ST
CARTER LAKE IA 51510**

**Appeal Number: 06A-UI-04256-CT
OC: 03/05/06 R: 01
Claimant: Respondent (4)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5(1)a – Quit for Other Employment

STATEMENT OF THE CASE:

Goodkind & Goodkind Direct, Inc. (Goodkind) filed an appeal from a representative's decision dated April 14, 2006, reference 02, which held that no disqualification would be imposed regarding Kenneth Miller's separation from employment. After due notice was issued, a hearing was held by telephone at 3:00 p.m. on May 4, 2006. The employer participated by Phil Nickisch, Senior Vice President. Mr. Miller responded to the notice of hearing but was not available at the number provided at the scheduled time of the hearing. He did not return a voice mail message until approximately 4:25 p.m., after the hearing record was closed. Because he did not have good cause for not being available at the scheduled time, the administrative law judge declined to reopen the record. Mr. Miller was given the opportunity to submit documentation concerning subsequent employment.

FINDINGS OF FACT:

Having heard the testimony of the witness and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Miller was employed by Goodkind, beginning October 2, 2003, as a full-time machine mechanic. There was a reduction in work hours in January and again in March of 2006. Although Mr. Miller worked fewer hours, he was never laid off. On March 20, he gave notice that he was quitting to accept a better job with Kellogg's. He did not give any other reason for leaving and had not complained about any matters before quitting. Continued work would have been available if he had not quit.

Mr. Miller claimed partial job insurance benefits for the weeks ending March 11 and March 18. He did not receive benefits for the week ending March 25 because of excess earnings. He has not claimed any weeks after the week ending March 25. Mr. Miller has presented pay stubs to establish that he did go to work for Kellogg's after leaving Goodkind.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Miller was separated from employment for any disqualifying reason. The administrative law judge notes that the employer does not dispute his entitlement to partial benefits for the period before March 20, 2006, the date on which he quit. An individual who voluntarily quits employment in good faith for the sole purpose of accepting work elsewhere is eligible to receive job insurance benefits if he has performed services in the new employment. Iowa Code section 96.5(1)a. Mr. Miller told Goodkind that he was leaving to accept work with Kellogg's and has submitted proof that he did go to work for Kellogg's.

For the reasons stated herein, benefits are allowed as Mr. Miller has satisfied the requirements of the law. If Mr. Miller is currently unemployed, he will have to reopen his claim in order to receive benefits. The unemployment account of Goodkind will not be charged for benefits paid to Mr. Miller after March 20, 2006.

DECISION:

The representative's decision dated April 14, 2006, reference 02, is hereby modified. Mr. Miller was partially unemployed due to a reduced workweek with Goodkind through March 18, 2006. He quit the employment on March 20, 2006, for the sole purpose of accepting a different job where he has now performed services. Benefits are allowed, provided Mr. Miller satisfies all other conditions of eligibility, but benefits paid after March 19, 2006, shall not be charged to Goodkind.

cfc/kkf