

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROBERT D ROBERTS
Claimant

APPEAL NO: 09A-UI-17519-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

THE UNIVERSITY OF IOWA
Employer

OC: 09/27/09
Claimant: Respondent (4)

Section 96.5-1- Voluntary Quit

STATEMENT OF THE CASE:

The employer appealed a representative's November 9, 2009 decision (reference 05) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant had been discharged for nondisqualifying reasons. A telephone hearing was held on December 31, 2009. The claimant responded to the hearing notice, but was not available for the hearing. Mary Eggenburg and George Boateng appeared on the employer's behalf.

After the hearing had been closed and the employer had been excused, the claimant contacted the Appeals Section. The claimant requested that the hearing be reopened. Based on the claimant's request to reopen the hearing, the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Is there good cause to reopen the hearing?

Did the claimant voluntarily quit his employment for reasons that qualify him to receive benefits, or did the employer discharge him for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on April 16, 2009. The claimant worked as a part-time dishwasher.

The last day the claimant worked as July 29, 2009. On August 1 and 3, the claimant was scheduled to work. The claimant notified the employer he was ill and unable to work. The claimant was also scheduled to work on August 4, 7 and 8. He did not call or report to work these days.

The employer's policy informs employees that if they have three no-call/no show incidents, the employer considers the employee to have abandoned employment and ends the employment

relationship. The employer no longer considered the claimant an employee as of August 10, 2009. The claimant did not contact the employer after August 3, 2009.

Hearing notices were mailed to the parties on November 23, 2009. The hearing notices informed the parties a hearing would be held on December 31 at 11:00 a.m. On December 31, the claimant knew he had a hearing, but did not remember what time the hearing was scheduled. When he was called, he was in a store and did not realize he had been called for the hearing. When the claimant left the store, he noticed he had a missed call. The claimant called the Appeals Section at 11:47 a.m. for the 11:00 a.m. scheduled hearing. The claimant requested that the hearing be reopened.

REASONING AND CONCLUSIONS OF LAW:

If a party responds to a hearing notice after the record has been closed and the party who participated at the hearing is no longer on the line, the administrative law judge can only ask why the party responded late to the hearing notice. If the party establishes good cause for responding late, the hearing shall be reopened. The rule specifically states that failure to read or follow the instructions on the hearing notice does not constitute good cause to reopen the hearing. 871 IAC 26.14(7) (b) and (c).

Although the claimant took his cell phone with him on December 31, he forgot when the hearing was scheduled. At 11:00 a.m., the claimant was not available for the hearing because he was at a store where he did not have good reception for his cell phone. It is a party's responsibility to make sure he can be reached at the phone number he provides as his phone number for the hearing. The claimant did not establish good cause to reopen the hearing. Therefore, his request to reopen the hearing is denied.

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer, or an employer has discharged the claimant for reasons constituting work-connected misconduct. Iowa Code §§ 96.5-1, 2-a. The facts establish the claimant voluntarily quit his part-time job by abandoning his employment after August 3. When a claimant quits, he has the burden to establish he quit for reasons that qualify him to receive benefits. Iowa Code § 96.6-2.

The facts do not establish the claimant quit his employment for reasons that qualify him to receive benefits. If the claimant had been working full time, he would be disqualified from receiving benefits. Since he was working part time, the law provides that even if a claimant quits a part-time job without good cause, he is eligible to receive benefits if he has wage credits in his base period from other employers that make him monetarily eligible to receive benefits. 871 IAC 24.27. In this case, the employer is not a base period employer. Therefore, wages the claimant earned while working for the employer were not initially included when determining he was monetarily eligible to receive benefits. Based on the 871 IAC 24.27, the claimant is eligible to receive benefits as of September 27, 2009, because he voluntarily quit a part-time job and is monetarily eligible to receive benefits based on wage credits he earned from his base period employers.

The employer's account will not be charged because claimant voluntary quit his employment without good cause.

DECISION:

The claimant's request to reopen the hearing is denied. The representative's November 9, 2009 decision (reference 05) is modified in the employer's favor. The claimant voluntarily quit his employment by abandoning it. The claimant quit for reasons that would not qualify him to receive benefits if he had been working full time. The employer's account will not be charged. Since the claimant voluntarily quit a part-time job without good cause but is monetarily eligible to receive benefits based on wages he earned from his base period employers, he is eligible to receive benefits as of September 27, 2009, provided he meets all other eligibility requirements.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css