

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHAWN R DANIELS
Claimant

APPEAL NO: 10A-UI-08366-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

H & J AIR CONDITIONING CO
Employer

OC: 04/18/10
Claimant: Appellant (4R)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

The claimant appealed a representative's June 8, 2010 decision (reference 01) that disqualified him from receiving benefits and held the employer's' account exempt from charge because he had voluntarily quit his employment for reasons that do not qualify him to receive benefits. A telephone hearing was held on July 28, 2010. The claimant participated in the hearing. Joel Jensen, the owner, and Megan Bolten, the office manager, appeared on the employer's behalf. Based on 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.

ISSUE:

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 September 4, 2001. On March 11, 2010, the claimant informed the employer his last day of work would be May 16, 2010, because he was going become self-employed. The employer hired the claimant's replacement before May 16 and ended the claimant's employment as of April 8, 2010.

The claimant established claim for benefits during the week of April 18, 2010. He has filed for and received benefits since April 18, 2010.

REASONING AND CONCLUSIONS OF LAW:

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 discharges him for work-connected misconduct. Iowa Code § 96.5-1. 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 law presumes a claimant voluntarily quits employment without good cause when he leaves to become self-employed. 871 IAC 24.25(19). However, when a claimant gives the employer

an advance notice of resignation and the employer does not allow the claimant to work until the effective date of his resignation, no disqualification shall be imposed until the date of the resignation. 871 IAC 24.25(38). This means the claimant is eligible to receive benefits for the weeks ending April 24 through May 15, 2010. As of May 16, 2010, the claimant is not qualified to receive benefits.

The employer's account is subject to charge for the benefits the claimant received April 24 through May 15, but will not be charged for any benefits the claimant may receive after April 15, 2010. Since the claimant has received benefits since May 16, 2010, an issue of overpayment will be remanded to the Claims Section.

DECISION:

The representative's June 8, 2010 decision (reference 01) is modified in the claimant's favor. The claimant is eligible to receive benefits for the weeks ending April 24 through May 15, 2010 because the employer did not allow him to work until the effective date of his resignation, May 16, 2010. As of May 16, 2010, the claimant is not qualified to receive benefits. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account is subject to charge for benefits the claimant received April 18 through May 15, 2010. The employer's account will not be charged for any benefits the claimant may receive after May 16, 2010. An issue of overpayment of benefits the claimant received after May 16, 2010, is **Remanded** to the Claims Section to determine.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css