

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

HERBERT O SPELLER
Claimant

ADESA DES MOINES LLC
Employer

APPEAL 15R-UI-07266-JP
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 01/25/15
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the February 11, 2015, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. An in-person hearing was held at 1000 E Grand Ave, Des Moines, Iowa on August 24, 2015. Claimant participated. Employer did not participate.

ISSUE:

Did claimant voluntarily quit the employment with good cause attributable to employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed part-time as a lead van driver, and was separated from employment in early December 2014, when he quit to attend school.

Claimant left the employer in early December 2014 to attend DMACC. Claimant was going to school to obtain a class A driver's license (truck driving school). This was a six to eight week course. Claimant stopped reporting for work at the employer once he started school. Claimant graduated on January 29 or 30, 2015. Prior to leaving for school, claimant tried to obtain a leave of absence from the employer, but this was denied. Claimant did not work from early December 2014 until he graduated at the end of January 2015. Over the December 2014 holidays, claimant inquired with the employer about working. The employer said claimant could work over the holidays. Because of a family emergency, claimant was unable to report to work over the holidays.

Claimant spoke with the employer and was told that he could come back to work by going online and applying for a job, because the job was still open. At the end of January 2015, beginning of February 2015, claimant worked one day through a temp agency. It was a one-day assignment. During this assignment, claimant was told by the manager in transportation (claimant's former supervisor) that he was not going to be rehired by the employer. Claimant then finished his assignment and left. Claimant then sought other employment through the temp agency. Periodically, claimant found work. Claimant did not have any restrictions on his work between

the claim period(s) of January 25, 2015 and February 7, 2015. Claimant also had no limits on the amount of hours he would work, he was willing and did accept temporary employment, and he was not self-employed between the claim period(s) of January 25, 2015 and February 7, 2015. Claimant was unavailable for work from December 2014 through January 2015 while he was in school.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was without good cause attributable to the employer. Benefits are denied.

Iowa Code § 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.

Iowa Admin. Code r. 871-24.25(26) 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 § 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 § 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:

(26) The claimant left to go to school.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973).

Claimant asked the employer for a leave of absence; however the employer denied this request. Claimant then chose to leave the employer to go to school to obtain a class A driver's license. Claimant was then unavailable for work for a period of six to eight weeks. Claimant failed to report to work once he started school in early December 2014. Even though claimant testified he did not tell anyone he quit, once he completed his course work, claimant had to apply with the employer to get his job back. This lends credibility that claimant separated from employment when he started school. Claimant's separation to start school was initiated by claimant. While claimant's leaving the employment may have been based upon good personal reasons, it was not for a good-cause reason attributable to the employer according to Iowa law. Benefits must be denied.

DECISION:

The February 11, 2015, (reference 01) unemployment insurance decision is affirmed. Claimant voluntarily left the employment without good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Jeremy Peterson
Administrative Law Judge

Decision Dated and Mailed

jp/pjs