

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

THAI V LEO
Claimant

DIAMOND CRYSTAL BRANDS INC
Employer

APPEAL 21A-UI-11970-CS-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 12/20/20
Claimant: Appellant (4)

Iowa Code §96.5(2)a-Discharge/Misconduct
Iowa Code §96.5(1)- Voluntary Quit

STATEMENT OF THE CASE:

On April 23, 2021, the claimant/appellant filed an appeal from the April 20, 2021, (reference 02) unemployment insurance decision that denied benefits based on claimant voluntarily quitting to accept new employment. The parties were properly notified about the hearing. A telephone hearing was held on August 18, 2021. Claimant participated at the hearing. Employer participated through Human Resources Manager, Tiffany Phillips. Exhibits A, B, and C were admitted into the record.

ISSUE:

Was the separation a layoff, discharge for misconduct, or voluntary quit without good cause?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on December 3, 2019. Claimant last worked as a full-time mixer. Claimant was separated from employment on March 26, 2021, when he resigned.

On March 15, 2021, claimant was offered a new position with a different employer. (Exhibit A, pg. 1). The claimant accepted the offer and tendered to the employer his written resignation on March 15, 2021. Claimant's resignation was effective March 26, 2021. On March 19, 2021, claimant received notice that the new employer had rescinded their offer of employment. (Exhibit B). Claimant immediately went to the employer and attempted to rescind his resignation. The employer informed him that he was too late because they had hired a new employee to fill his position. Claimant continued working for the employer until March 26, 2021 when he was separated from work due to his resignation. Claimant has since found a new job and started working there on April 26, 2021.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge finds that the claimant voluntarily left the employment to accept employment elsewhere.

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. 871-24.28(5) provides:

Voluntary quit requalifications and previously adjudicated voluntary quit issues.

(5) The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment. The employment does not have to be covered employment and does not include self-employment.

Iowa Admin. Code r. 871-23.43(5) provides:

(5) Sole purpose. The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment. No charge shall accrue to the account of the former voluntarily quit employer.

Even though the separation was without good cause attributable to the employer, and would, standing alone, disqualify the claimant from receiving benefits, the claimant did leave the employment in order to accept other employment but was separated before having started the new employment. As such, benefits are allowed and the account of the employer shall not be charged.

DECISION:

The April 20, 2021, (reference 02) unemployment insurance decision is modified in favor of the appellant. The claimant voluntarily left the employment in order to accept other employment. Benefits are allowed, provided the claimant is otherwise eligible. The account of the employer (account number 327250-000) shall not be charged.



Carly Smith
Administrative Law Judge
Unemployment Insurance Appeals Bureau

August 23, 2021
Decision Dated and Mailed

cs/scn