

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CHRISTINE M HOOTEN
Claimant

APPEAL 17A-UCFE-00017-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CELENA C VON BEHREN
Employer

**OC: 06/12/16
Claimant: Appellant (4)**

Iowa Code § 96.5(1)i – Voluntary Quitting/Business Sale

STATEMENT OF THE CASE:

The claimant filed an appeal from the March 31, 2017 (reference 11) unemployment insurance decision that denied benefits based upon a determination that claimant was discharged for disqualifying misconduct. The parties were properly notified of the hearing. A telephone hearing was held on April 26, 2017. The claimant, Christine M. Hooten, participated. The employer, Celena C. Von Behren, participated through Terri Olson, Former Manager of Celena C. Von Behren, doing business as Linco Water.

ISSUE:

Did the claimant continue working for the acquiring or successor employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed by Celena C. Von Behren (employer account number 577420) full time, most recently as a secretary, from June 28, 2016, until December 31, 2016, when the employer sold its business to Olson and Bryon Herrold effective January 1, 2017. Olson and Herrold operated the business as Linco Water Services Well Pump Incorporated (employer account number 586797). The claimant continued working for the new employer until March 15, 2017. That subsequent separation has been determined by the Benefits Bureau in the unemployment insurance decision dated March 31, 2017 (reference 12). No work was available for claimant with this employer after December 31, 2016.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant is eligible for benefits following her separation from this employer.

Iowa Code § 96.5-(1)-i 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. But the individual shall not be disqualified if the department finds that:

i. The individual is unemployed as a result of the individual's employer selling or otherwise transferring a clearly segregable and identifiable part of the employer's business or enterprise to another employer which does not make an offer of suitable work to the individual as provided under subsection 3. However, if the individual does accept, and works in and is paid wages for, suitable work with the acquiring employer, the benefits paid which are based on the wages paid by the transferring employer shall be charged to the unemployment compensation fund provided that the acquiring employer has not received, or will not receive, a partial transfer of experience under the provisions of section 96.7, subsection 2, paragraph "b". Relief of charges under this paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The claimant was employed by this company, which was sold, and continued employment with the new employer. Accordingly, benefits are allowed, provided the claimant is otherwise eligible, and the account of this former employer shall not be charged.

DECISION:

The March 31, 2017, (reference 11) unemployment insurance decision is modified in favor of the appellant. The claimant continued working for the new owner of the business and was subsequently separated. Benefits are allowed, provided the claimant is otherwise eligible. The account of this former employer (account number 577420) shall not be charged.

Elizabeth A. Johnson
Administrative Law Judge

Decision Dated and Mailed