IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS

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

JOSH R APPLEBY
Claimant

THE MAYTAG COMPANY
Employer

APPEAL NO. 08A-UI-08096-DT

ADMINISTRATIVE LAW JUDGE DECISION

OC: 12/23/07 R: 03
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Josh R. Appleby (claimant) appealed a representative's September 4, 2008 decision (reference 06) that concluded he was not qualified to receive unemployment insurance benefits after a separation from employment from The Maytag Company (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 2, 2008. The claimant participated in the hearing. The employer failed to respond to the hearing notice and provide a telephone number at which a witness or representative could be reached for the hearing and did not participate in the hearing. Based on the evidence, the arguments of the claimant, 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 for a good cause attributable to the employer?

FINDINGS OF FACT:

After a prior period of employment with the employer, the claimant most recently started working for the employer on September 5, 2007. He worked full time as an assembler and general laborer in the employer's Middle Amana, Iowa, manufacturing facility. His last day of work was August 15, 2008. He put in his notice approximately July 15 that he was resigning in order to attend college. Although the claimant was not unhappy in his work, he had determined to pursue additional education in engineering in order to obtain better employment in the future. His job was not in jeopardy at the time of his departure, and there had been no layoffs scheduled. After leaving his employment, he made application for Department Approved Training (DAT), which was granted through a representative's decision issued August 19, 2008 (reference 04), effective August 23 through December 21, 2008.

REASONING AND CONCLUSIONS OF LAW:

If the claimant voluntarily quit his employment, he is not eligible for unemployment insurance benefits unless it was for good cause attributable to the employer. Iowa Code § 96.5-1.

Rule 871 IAC 24.25 provides that, 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. A voluntary leaving of employment requires an intention to terminate the employment relationship and an action to carry out that intent. Bartelt v. Employment Appeal Board, 494 N.W.2d 684 (Iowa 1993); Wills v. Employment Appeal Board, 447 N.W.2d 137, 138 (Iowa 1989). The claimant did express or exhibit the intent to cease working for the employer and did act to carry it out. The claimant would be disqualified for unemployment insurance benefits unless he voluntarily quit for good cause.

The claimant asserts that he should not be disqualified as he is protected under the provisions of Iowa Code § 96.4-6. Paragraph (a) of that subsection provides that an "otherwise eligible" individual will not be disqualified from benefits for failing to be able and available for work or refusing work because he is in training approved by the Agency director. Paragraph (b) of the subsection provides that an "otherwise eligible" individual will not be disqualified from benefits where he is in approved training under a specified federal program because the individual had left work "which is not suitable employment to enter the approved training." "Suitable employment" is then defined as "work of a substantially equal or higher skill level than an individual's past adversely affected employment as defined in 19 U.S.C. § 2319(1), if weekly wages for the work are not less than eighty percent of the individual's average weekly wage." (Emphasis added.)

The federal training program referred to in paragraph (b) is a program established to assist employees displaced by import competition. 19 U.S.C. § 2296. "Adversely affected employment" is employment in which employees would be eligible to apply for adjustment assistance under the federal program because they are part of a group of employees that has been certified as being part of a workforce in which a significant number of the workers have become totally or partially separated, or were threatened to become totally or partially separated because of a decrease in sales or production due to direct competition with an increase in the import of like items, or there has been a shift in production of like items by the employer to a foreign country, and the country is one with a specified trade agreement with the United States. 19 U.S.C. §§ 2319(1); 2271(a)(1); 2272(a). There has been no showing that the employer in this case is "adversely affected employment" under which its employees, such as the claimant, would be entitled for the federal program's adjustment assistance. Therefore, the claimant did not leave "past adversely affected employment" and is not entitled to utilize the exception to the general rule provided in Iowa Code § 96.4-6(b).

In general, in order to be "otherwise eligible," a claimant has had a non-disqualifying separation. Iowa Code § 96.5. In the absence of qualifying for a special program such as that set out in the federal law, quitting in order to attend school to seek a better job, while for a good personal reason, is not attributable to the employer and is disqualifying. 871 IAC 24.25(26). The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. The claimant has not satisfied his burden. Benefits are denied.

DECISION:

The representative's September 4, 2008 decision (reference 06) is affirmed. The claimant voluntarily left his employment without good cause attributable to the employer. As of August 15, 2008, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Lynette A. F. Donner
Administrative Law Judge

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Decision Dated and Mailed

ld/kjw