

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LUKE HENSON
Claimant

APPEAL NO. 12A-UI-15233-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MENARD INC
Employer

OC: 10/07/12
Claimant: Appellant (4)

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The claimant, Luke Henson, filed an appeal from a decision dated December 19, 2012, reference 03. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on January 30, 2013. The claimant participated on his own behalf. The employer, Menard, participated by Assistant General Manager Ben Schultz

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

Luke Henson was employed by Menard from November 1 until November 25, 2012 as a full-time manager trainee. On November 25, 2012, he gave a two-week notice to the employer he was quitting to accept other employment. He intended to work through December 9, 2012, because his new job with John Deere started December 10, 2012. The last weekly claim for benefits was the week ending December 1, 2012.

His resignation was accepted immediately as it was not considered necessary for him to continue in the manager trainee program if he did not intend to stay.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5-1-a 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:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

871 IAC 24.25(38) 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 section 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 section 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:

(38) Where the claimant gave the employer an advance notice of resignation which caused the employer to discharge the claimant prior to the proposed date of resignation, no disqualification shall be imposed from the last day of work until the proposed date of resignation; however, benefits will be denied effective the proposed date of resignation.

The employer released the claimant from employment immediately upon his resignation rather than allowing him to work through the proposed two-week notice period. Under the provisions of the above Administrative Code section, Mr. Henson is eligible for benefits from November 25 through December 9, 2012.

DECISION:

The representative's decision of December 19, 2012, reference 03, is modified in favor of the appellant. Luke Henson is eligible for benefits from November 25 through December 9, 2012.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css