

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JASON SZABO
Claimant

APPEAL NO: 14A-UI-06206-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

GREGS LAWN SERVICE INC
Employer

OC: 05/18/14
Claimant: Respondent (1-R)

Section 96.5(1) – Voluntary Leaving
871 IAC 24.26(19 & 22) – Voluntary Leaving
Section 96.5-1-j – Reassignment from Employer

STATEMENT OF CASE:

The employer filed a timely appeal from the June 11, 2014, reference 01, decision that allowed benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on July 9, 2014. The claimant participated in the hearing. Linda Simon, Human Resources Director, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant voluntarily left his employment and whether he sought reassignment from the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a part-time seasonal snow removal worker for Greg's Lawn Service from December 8, 2013 to March 2, 2014. The claimant's initial assignment ended due to a lack of work as winter ended. The employer told the claimant, and all employees, it had lawn mowing and other related worker available after snow removal season and instructed them to simply fill out an application if they wished to continue working. The claimant chose not to work over the summer and does not have transportation at this time.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant's separation was not disqualifying but the matter of whether he is able and available for work will be remanded to the Claims Section for an initial determination and adjudication.

Iowa Code section 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. 871-24.26(19) and (22) provide:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(19) The claimant was employed on a temporary basis for assignment to spot jobs or casual labor work and fulfilled the contract of hire when each of the jobs was completed. An election not to report for a new assignment to work shall not be construed as a voluntary leaving of employment. The issue of a refusal of an offer of suitable work shall be adjudicated when an offer of work is made by the former employer. The provisions of Iowa Code section 96.5(3) and rule 24.24(96) are controlling in the determination of suitability of work. However, this subrule shall not apply to substitute school employees who are subject to the provisions of Iowa Code section 96.4(5) which denies benefits that are based on service in an educational institution when the individual declines or refuses to accept a new contract or reasonable assurance of continued employment status. Under this circumstance, the substitute school employee shall be considered to have voluntarily quit employment.

(22) The claimant was hired for a specific period of time and completed the contract of hire by working until this specific period of time had lapsed. However, this subrule shall not apply to substitute school employees who are subject to the provisions of Iowa Code section 96.4(5) which denies benefits that are based on service in an educational institution when the individual declines or refuses to accept a new contract or reasonable assurance of continued employment status. Under this circumstance, the substitute school employees shall be considered to have voluntarily quit employment.

The claimant completed the contract of hire with the employer by working through the snow removal season and although the employer more likely than not had additional work for the claimant in its lawn care department, it did not make a personal offer of work to the claimant where the job duties, wages, hours and other items of that nature were discussed. The offer needs to be made by the employer to the claimant in person or by certified mail. If the employer has made an offer of work to the claimant since his separation from employment it needs to notify the Department.

There is also an issue of whether the claimant is able and available for work as he does not have transportation at this time. That issue is remanded to the Claims Section of Iowa Workforce Development for an initial determination and adjudication.

DECISION:

The June 11, 2014, reference 01, decision is affirmed. The claimant's separation from employment was for no disqualifying reason. Benefits are allowed, provided the claimant is otherwise eligible. The issue of whether the claimant is able and available for work is remanded to the Claims Section of Iowa Workforce Development for an initial determination and adjudication.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/css