

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

STEPHEN DEROSE
Claimant

ERASMUS COMMUNICATIONS INC
Employer

APPEAL 18A-UI-02093-DG-T

**ADMINISTRATIVE LAW JUDGE
AMENDED DECISION**

**OC: 01/28/18
Claimant: Respondent (1R)**

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

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated February 9, 2018, (reference 01) that held claimant eligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on March 12, 2018. Claimant participated personally. Employer participated by Kayla Spillman, Payroll Accountant.

ISSUES:

Did the claimant continue working for the acquiring or successor employer, and should the employer's account be charged?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: The employer sold its business to Higher Education in November, 2017. The claimant continued working for the new employer until he was laid off from work in January, 2018. Claimant is still employed by Higher Education.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant continued working for the acquiring employer.

Iowa Code section 96.5(1)i provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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. The business successorship issue should be remanded to the tax bureau for a hearing and decision.

DECISION:

The February 9, 2018, (reference 01) unemployment insurance decision is affirmed. The claimant continued working for the new owner of the business and was laid off for lack of work by that employer. Benefits are allowed, provided the claimant is otherwise eligible.

REMAND: A decision on business successorship has not been issued, this matter is therefore remanded to the tax section of Iowa Workforce Development for further development and proceedings so a successorship decision may be entered.

Duane L. Golden
Administrative Law Judge

Decision Dated and Mailed

dlg/scn