

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JERRY FERRISS
Claimant

APPEAL NO: 13A-UI-03398-E

**ADMINISTRATIVE LAW JUDGE
DECISION**

O'REILLY AUTOMOTIVE INC
Employer

**OC: 02/17/13
Claimant: Appellant (4)**

Section 96.5-1 a – Voluntary Leaving – Other Employment

STATEMENT OF THE CASE:

The employer filed a timely appeal from the March 11, 2013, reference 01, decision that allowed benefits to the claimant. After due notice was issued, a hearing was held in Des Moines, Iowa, before Administrative Law Judge Julie Elder on May 6, 2013. The claimant participated in the hearing with wife/witness Susan Ferriss and subpoenaed witnesses Justin Rinehart, Assistant Store Manager and Ashley Deaton, Counter Specialist, for the employer. Chuck Hood, Store Manager, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant voluntarily left his employment to accept employment elsewhere.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time retail sales specialist for O'Reilly Automotive from September 15, 2008 to January 30, 2013. Continued work was available. The claimant left employment with O'Reilly Automotive to accept other employment at Karl's Chevrolet and performed services for that employer.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment to accept employment elsewhere.

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.

Even though the separation was without good cause attributable to the employer and would, standing alone, disqualify the claimant from receiving benefits, the claimant did leave in order to accept other employment and did perform services for the subsequent employer. Accordingly, benefits are allowed and the account of O'Reilly Automotive shall not be charged.

DECISION:

The March 11, 2013, reference 01, decision is modified in favor of the appellant. The claimant voluntarily left his employment in order to accept other employment. Benefits are allowed, provided the claimant is otherwise eligible. The account of this employer shall not be charged.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

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