

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RAUL R ACOSTA
Claimant

APPEAL NO. 11A-UI-02532-M2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

MARSDEN BLDG MAINTENANCE LLC
Employer

**OC: 01/02/11
Claimant: Appellant (2)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated February 22, 2011, reference 05, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on March 24, 2011. Claimant participated. Employer chose not participate. Exhibit 1 was admitted into evidence.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant quit the employment for other employment that he worked in. He states that this was the first half of October 2009, but the wage records reported by the employer show that October of 2010 is the more probable separation date.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the evidence has established that claimant voluntarily quit for other employment which he actually worked in. That is not a disqualifying quit. The employer shall not be charged for benefits paid.

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.

871 IAC 23.43(5) provides:

(5) Sole purpose. The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment. No charge shall accrue to the account of the former voluntarily quit employer.

DECISION:

The decision of the representative dated February 22, 2011, reference 05, is reversed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible.

Stan McElderry
Administrative Law Judge

Decision Dated and Mailed

srm/css