

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DUSTIN J MILLER
Claimant

APPEAL NO. 12A-UI-02208-VST

FAREWAY STORES INC
Employer

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 01/15/12
Claimant: Appellant (4)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed an appeal from a decision of a representative dated February 28, 2012, reference 01, which held that the claimant was not eligible to receive unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on March 20, 2012. Claimant participated. The employer participated by Theresa McLaughlin, human resources generalist. The record consists of the testimony of Dustin Miller; Claimant's Exhibits A-B; and Employer's Exhibit One. No testimony was necessary from Ms. McLaughlin.

ISSUE:

Whether the claimant voluntarily quit without good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witness and having considered all of the evidence in the record, makes the following findings of fact:

The claimant was previously employed by Fareway Stores. The claimant voluntarily resigned his position with Fareway, with his last day of work being December 17, 2011. The claimant then went to work for Sandstrom Construction. The claimant was paid wages with this new job. (Exhibits A and B) He is presently on temporary layoff from Sandstrom Construction.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 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.

The evidence established that the claimant voluntarily resigned his position with the employer for the sole purpose of accepting other employment. He accepted the new employment and performed services for the new employer. The claimant is therefore not disqualified from receiving benefits. Wage credits earned with Fareway shall be charged to the unemployment compensation fund.

DECISION:

The decision of the representative dated February 28, 2012, reference 01, is modified in favor of the appellant. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible. Benefits relating to wage credits earned with Fareway (006745) shall be charged to the unemployment compensation fund.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

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