

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DUSTIN A ACKERMAN
Claimant

APPEAL NO: 14A-UI-10502-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

PROLAWN PLUS INC
Employer

OC: 11/24/13
Claimant: Respondent (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Prolawn Plus, Inc. (employer) appealed a representative's September 16, 2014 decision (reference 02) that concluded Dustin A. Ackerman (claimant) was qualified to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 8, 2014. The parties waived notice, and this appeal was then consolidated for hearing with related Appeal No. 14A-UI-09717-DT. The claimant participated in the hearing. John Robson appeared on the employer's behalf. Two other witnesses, Christine Robson and Zack Robson, were available on behalf of the employer but did not testify. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit for a disqualifying reason?

OUTCOME:

Modified. Benefits allowed; employer's account relieved of charge.

FINDINGS OF FACT:

The claimant started working for the employer on August 30, 2012. He worked full time as a lawn mowing technician. His last day of work was July 21, 2014. He voluntarily quit as of that date.

On July 21 the claimant received an offer of work from F.G. Krob Grain Elevator; he was to haul grain for an hourly rate of \$16.50 and he was to start on July 23. As a result of this, the claimant resigned his position with the employer. Had it not been for this job offer, the claimant would not have resigned his position, even though he had had some problems with another employee which he had not reported to the employer.

On July 23 the claimant went in to start his new job. He was then informed that the filling of the position had been delayed. However, the position in fact never came to be.

REASONING AND CONCLUSIONS OF LAW:

If the claimant voluntarily quit his employment, he is not eligible for unemployment insurance benefits unless it was for a non-disqualifying reason. Iowa Code § 96.5-1. One reason a voluntary quit is non-disqualifying is if an employee quits for the reason of accepting and entering into new employment. Iowa Code § 96.5-1-a. While leaving to seek new employment where that hoped-for new employment has not been obtained prior to the quit is does not satisfy this exception (Rule 871 IAC 24.25(3), there is also provision under which the employee is deemed to have quit for a non-disqualifying reason “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.” Rule 871 IAC 24.28(5). However, under these circumstances the employer’s account is also not subject to charge.

The claimant did voluntarily quit in order accept a bona fide offer of other employment. The claimant is not disqualified from receiving benefits as a result of his quit from the employer in this case, but the employer’s account will not be charged.

DECISION:

The representative’s September 16, 2014 decision (reference 02) is affirmed. The claimant voluntarily left his employment, but the quit was not disqualifying. The claimant is eligible for unemployment insurance benefits, provided he is otherwise eligible. The employer’s account will not be charged.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/can