

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DANIEL E BENSON
Claimant

APPEAL NO. 10A-UI-16772-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

JAX INC
JAX OUTDOOR GEAR INC
Employer

OC: 11/15/09
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Leaving
871 IAC 24.27 – Voluntary Leaving Part Time Employment

STATEMENT OF THE CASE:

The claimant did not intend to file an appeal from the March 3, 2010 (reference 02) decision in the November 15, 2009 claim year that allowed benefits based upon a leaving of part-time employment on January 29, 2010. For informational purposes, the issues will be explained as the representative's decision would be affirmed on the merits. After due notice was issued, a telephone conference hearing was held on January 26, 2011. Claimant participated. Employer did not respond to the hearing notice instructions and did not participate.

ISSUE:

The issue is whether claimant voluntarily left the employment on January 29, 2010 with good cause attributable to the employer.

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant most recently worked part-time left the employment on January 29, 2010 to move to California with his spouse for her new job. He has other full and part-time employment in the base period. The administrative record shows that the claimant has not requalified for benefits since this separation but reflects he is otherwise monetarily eligible for benefits after this employer's wages are excluded from the base period.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment on January 29, 2010 without good cause attributable to the employer, but has not requalified and may be otherwise monetarily eligible.

Iowa Code § 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 24.25(2) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code § 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code § 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(2) The claimant moved to a different locality.

Iowa Code § 96.5-1-g 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:

g. The individual left work voluntarily without good cause attributable to the employer under circumstances which did or would disqualify the individual for benefits, except as provided in paragraph "a" of this subsection but, subsequent to the leaving, the individual worked in and was paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

871 IAC 24.27 provides:

Voluntary quit of part-time employment and requalification. An individual who voluntarily quits without good cause part-time employment and has not requalified for benefits following the voluntary quit of part-time employment, yet is otherwise monetarily eligible for benefits based on wages paid by the regular or other base period employers, shall not be disqualified for voluntarily quitting the part-time employment. The individual and the part-time employer which was voluntarily quit shall be notified on the Form 65-5323 or 60-0186, Unemployment Insurance Decision, that benefit payments shall not be made which are based on the wages paid by the part-time employer and benefit charges shall not be assessed against the part-time employer's account; however, once the individual has met the requalification requirements following the voluntary quit without good cause of the part-time employer, the wages paid in the part-time employment shall be available for benefit payment purposes. For benefit charging purposes and as determined by the applicable requalification requirements, the wages paid by the part-time employer shall be transferred to the balancing account.

Inasmuch as claimant quit to move, the separation is disqualifying. However, the claimant has not requalified for benefits since the separation on January 29, 2010 and may be otherwise monetarily eligible according to base period wages. Benefits are allowed, provided the claimant is otherwise eligible.

DECISION:

The March 3, 2010 (reference 02), decision is affirmed. The claimant voluntarily left the employment on January 29, 2010 without good cause attributable to the employer and has not requalified for benefits but may be otherwise monetarily eligible. Benefits are allowed, provided the claimant is otherwise eligible during the November 15, 2009 claim year. The account of this employer (357156) shall not be charged.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/css