

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

FERGUS LAUGHRIDGE
Claimant

APPEAL NO. 07A-UI-07376-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MCGRATH AUTOMOTIVE GROUP INC
Employer

**OC: 06/17/07 R: 03
Claimant: Appellant (4)**

Section 96 5-2-a – Discharge for Misconduct
Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Fergus Laughridge (claimant) appealed an unemployment insurance decision dated July 24, 2007, reference 03, which held that he was not eligible for unemployment insurance benefits because he voluntarily quit his employment with McGrath Automotive Group, Inc. (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 16, 2007. The claimant participated in the hearing. The employer participated through Sharon Wagner, Personnel Director. 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:

The issue is whether the claimant was discharged for misconduct prior to the date of his resignation and whether his voluntary quit was disqualifying.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time sales consultant from May 7, 2007 through June 14, 2007. He gave notice on June 13, 2007 that his last day of employment would be June 29, 2007 because he was moving. The employer discharged him on June 14, 2007 according to its policy.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the reasons for the claimant's separation from employment qualify him to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if he voluntarily quit without good cause attributable to the employer or if the employer discharged him for work-connected misconduct. Iowa Code sections 96.5-1 and 96.5-2-a.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980) and Peck v. Employment Appeal Bd., 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant demonstrated his intent to quit and acted to carry it out when he gave notice to quit on June 13, 2007 with an effective separation date of June 29, 2007. The claimant has the burden of proving that the voluntary quit was for a good reason that would not disqualify him. Iowa Code section 96.6-2.

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 section 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 section 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.

The claimant voluntarily quit because he moved from Cedar Rapids, Iowa to Clarksville, Iowa. While he had compelling personal reasons to voluntarily quit his employment, these reasons do not constitute good cause attributable to the employer. Benefits are denied after the effective date of his resignation.

However, when an individual is discharged prior to an effective date of resignation, benefits are allowed from the last day worked until the effective date of the resignation, unless the claimant was discharged for work-connected misconduct. 871 IAC 24.25(38). The claimant was discharged prior to the effective date of his resignation according to company policy. The employer admitted the early discharge was not due to misconduct. Consequently, the claimant qualifies for benefits for the two-week period ending June 30, 2007.

DECISION:

The unemployment insurance decision dated July 24, 2007, reference 03, is modified in favor of the appellant. The claimant was discharged prior to the effective date of his resignation with no showing of misconduct. Benefits are allowed for the two-week period ending June 30, 2007. His separation after that date was without good cause attributable to the employer. Benefits are

withheld beginning July 7, 2007 and until he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/css