

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ANTHONY M GRIFFIN

Claimant

APPEAL NO. 12A-UI-11891-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

MEDIACOM COMMUNICATIONS

Employer

OC: 09/02/12

Claimant: Appellant (2/R)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Anthony Griffin (claimant) appealed a representative's September 24, 2012 decision (reference 01) that concluded he was not eligible to receive unemployment insurance benefits because he voluntarily quit work with Mediacom Communications (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for October 29, 2012. The claimant participated personally. The employer participated by Erin Publow, human resources manager. The claimant offered and Exhibit A was received into evidence.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant was hired on November 29, 2004, and at the end of his employment was working as a full-time internet support supervisor. The claimant was seeing a clinical social worker for issues related to depression. The claimant did not ask the employer for work accommodations or medical leave.

On August 21, 2012, the claimant informed the employer that he was resigning effective August 24, 2012, because he found another job at Fatino Marketing. The claimant worked for the employer through August 24, 2012. Continued work was available had the claimant not resigned.

On August 28, 2012, the claimant was driving to the first day on his new job when he was involved in an automobile accident. The claimant was injured and restricted from working through September 27, 2012. Fatino Marketing ended his employment. On September 27, 2012, the claimant was released to return to work with extensive restrictions.

The claimant filed for unemployment insurance benefits with an effective date of September 2, 2012.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily quit work without good cause attributable to the employer.

Iowa Code section 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.

871 IAC 24.28(5) provides:

Voluntary quit requalifications and previously adjudicated voluntary quit issues.

(5) 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.

The claimant left his position with the employer to work for another employer. When an employee quits work to take other employment, he is not disqualified from receiving unemployment insurance benefits. The claimant quit work to take other employment. He voluntarily quit without good cause attributable to the employer. Benefits are allowed because the claimant left to take other employment. The employer will not be charged.

The issue of whether the claimant was and is able and available for work is remanded for determination.

DECISION:

The representative's September 24 2012 decision (reference 01) is reversed. The claimant voluntarily left work without good cause attributable to the employer. The claimant is not disqualified from receiving unemployment insurance benefits, because he quit to take other employment. The employer will not be charged. The issue of whether the claimant was and is able and available for work is remanded for determination.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/kjw