

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARK E JAYNE

Claimant

APPEAL NO: 14A-UI-01257-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

RIVERSIDE CASINO AND GOLF RESORT

Employer

OC: 01/05/14

Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quit

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's January 30, 2014 determination (reference 01) that disqualified him from receiving benefits and held the employer's account exempt from charge because he voluntarily quit this employment for reasons that do not qualify him to receive benefits. The claimant did not personally participate at the March 27 hearing, but authorized Christine Eggers and Bob Himshoot to participate and represent him at the hearing. Bobbi Adamson, the employer's human resource business partner, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

ISSUE:

Did the claimant voluntarily quit this employment for reasons that qualify him to receive benefits?

FINDINGS OF FACT:

After the claimant's employment with another employer ended on November 30, 2013, the claimant accepted a full-time security position with the employer on December 2, 2013. The employer is located about 45 miles from the claimant's residence. The employer hired the claimant to work the overnight shift.

During his employment, the claimant reported to work as he understood he was scheduled, but was sent home one or more times because he was not scheduled to work. The last day the claimant reported to work and was not scheduled to work was January 9, 2014. On January 10, the claimant resigned effective immediately. The employer understood the claimant quit because the distance to work in addition to the cost of gas to get to work cost too much for the claimant to continue this job.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer. Iowa Code § 96.5(1). When a claimant quits, he has the burden to establish he quit for reasons that qualify him to receive

benefits. Iowa Code § 96.6(2). The law presumes a claimant without good cause when he leaves because of the commuting distance and the wages he receives. 871 IAC 24.25(30) and (13). When the claimant accepted the job, he knew the distance he would be required to commute and accepted the hourly rate of pay the employer offered him.

Since neither the claimant nor his immediate supervisor participated at the hearing, the number of times the claimant reported to work and was not scheduled ranges from once to several times. If the claimant misunderstood when he was to report to work, this communication issue could have been easily resolved between the claimant and his supervisor. It seems more likely; the claimant was sent home once and resigned the next day because of the cost to commute to work. While the administrative law judge understands why the claimant quit, he knew the distance he would be required to commute each day and also accepted the hourly wage the employer offered him. Even though the employer's hourly wages may have been significantly lower than the wage he had earned from his previous employer, the claimant accepted the employer's hourly wage when he began working in early December 2013. The claimant established personal reasons for quitting, but based on the reasons for this employment separation, he is not qualified to receive benefits.

The claimant's representative asserted the claimant is eligible to receive benefits based on his employment with his previous employer. If the claimant had not accepted the job with the employer, this argument would be valid. Once the claimant accepted the full-time security position with the employer, the reasons for his employment separation from Riverside Casino and Golf Resort must be examined to determine if this employment separation is for disqualifying or nondisqualifying reasons. Even though the employer is not a base period employer, the claimant's base period employer, Iowa Mediation Services, cannot dictate if the claimant is or is not qualified to receive benefits. While this administrative law judge may not like or agree with the decision in this matter, I must follow the law. Based on the law, the claimant quit his most recent employer for reasons that do not qualify him to receive benefits. As of January 5, 2014, the claimant is not qualified to receive benefits.

DECISION:

The representative's January 30, 2014 determination (reference 01) is affirmed. The claimant voluntarily quit this employment for personal reasons, but these reasons do not qualify him to receive benefits. As of January 5, 2014, the claimant is disqualified from receiving unemployment insurance benefits. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css