

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TRENTON A SHUMAN
Claimant

APPEAL NO. 12A-UI-03469-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WORKSOURCE INC
Employer

OC: 02/12/12
Claimant: Appellant (2-R)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated March 29, 2011, reference 03, that concluded the claimant voluntarily quit employment when he quit employment before the date of a layoff. A telephone hearing was held on April 19, 2012. The parties were properly notified about the hearing. The claimant failed to participate in the hearing. Lorie Streeter participated in the hearing on behalf of the employer.

ISSUE:

Did the claimant voluntarily quit employment without good cause attributable to the employer?

FINDINGS OF FACT:

The claimant worked full time for the employer on an assignment at Cryotech in Fort Madison, Iowa, from September 11, 2011, to January 11, 2012. When the claimant was hired, he was given a statement to read and sign that said he would be considered to have voluntarily quit employment if he did not contact the employer within three working days after the completion of a job assignment and request a new assignment.

On January 10, 2012, the claimant was informed that he was going to be laid off and his last day would be January 13, 2012. He was absent from work on January 12 and 13.

The claimant contacted the employer January 16, 2012, and asked if the employer had another assignment for him. He was offered an assignment in Burlington, but declined the job because he was looking for something closer to home.

The claimant filed a claim for unemployment insurance benefits with an effective date of February 12, 2012.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer, who are discharged for work-connected

misconduct, or who refuse suitable work without good cause. Iowa Code §§ 96.5-1, 96.5-2-a, and 96.5-3.

The Agency disqualified the claimant based on 871 IAC 24.25(29), which states that a claimant is presumed to have voluntarily quit employment without good cause attributable to the employer if he left in anticipation of a layoff in the near future, but work was still available at the time he left. This rule applies only if there is no definite layoff date, which is not the case here. The rule that applies here is 871 IAC 24.25(40), which states that the claimant who voluntarily quits in advance of the announced scheduled layoff is ineligible until the date of the scheduled layoff but eligible as of the effective date of the scheduled layoff. The claimant did not apply for benefits until the week of February 5, 2012, so he is not ineligible based on his quitting work a couple days early.

Iowa Code § 96.5-1-j provides that individuals employed by a temporary agency must contact their employer within three working days after the completion of a work assignment and seek a new assignment or they will be considered to have voluntarily quit employment without good cause attributable to the employer, provided that the employer has given them a statement to read and sign that advises them of these requirements. The claimant is not disqualified under Iowa Code § 96.5-1-j because he contacted the employer within three days requesting another assignment.

The employer presented evidence about failures to accept work on January 16 and March 29, 2012. The rules provide that "an election not to report for a new assignment to work shall not be construed as a voluntary leaving of employment. The issue of a refusal of an offer of suitable work shall be adjudicated when an offer of work is made by the former employer. The provisions of Iowa Code § 96.5-3 and rule 24.24 are controlling in the determination of suitability of work." 871 IAC 24.26(19).

The issue of whether the claimant failed to accept an offer of suitable work without good cause and the law section for that issue were not listed on the hearing notice. The claimant did not participate in the hearing, so there was no way for him to waive the required notice of an issue raised in an unemployment insurance appeal. As a result, it is necessary to remand the issues of whether the claimant failed to accept offers of suitable work without good cause in January and March 2012. I will note that the law provides that a claimant is not subject to disqualification for an offer of work made before the effective date of the unemployment insurance claim. 871 IAC 24.24(8).

DECISION:

The unemployment insurance decision dated March 29, 2011, reference 03, is reversed. The claimant is not subject to disqualification based on his separation from work in January 2012. The issues of whether the claimant failed to accept offers of suitable work without good cause in January and March 2012 is remanded to the Agency.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css