

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DANIEL A KING
Claimant

APPEAL NO. 17A-UI-02599-TNT

**ADMINISTRATIVE LAW JUDGE
DECISION**

APEX SYSTEMS LLC
Employer

OC: 02/12/17
Claimant: Appellant (2)

Iowa Code § 96.5(1) – Voluntary Leaving

STATEMENT OF THE CASE:

Daniel King, the claimant, filed a timely appeal from a representative's decision dated March 1, 2017, reference 01, which denied unemployment insurance benefits, finding that the claimant voluntarily quit work on January 13, 2017, when he resigned and the employer accepted his resignation. After due notice was provided, a telephone hearing was held on Friday, March 31, 2017. Mr. King participated personally. Apex Systems indicated they would not be participating in the hearing.

ISSUE:

Whether the claimant left employment with good cause attributable to the employer and whether the claimant is subject to a benefit disqualification.

FINDINGS OF FACT:

Having considered all of the evidence in the record, the administrative law judge finds: Daniel King was employed by Apex Systems LLC from August, 2015 until January 13, 2017 when he left his employment with Apex Systems to accept full-time employment with Smitty's Auto Sales in Des Moines, Iowa. Mr. King was employed as a full-time technical support representative for Apex Systems and was assigned to work at a Wells Fargo location. Mr. King was paid by the hour. His immediate supervisor was Becky Shulty.

Mr. King left his employment with Apex Systems, LLC after providing 1.5 weeks' notice of his intention to leave. Mr. King's contract with Apex Systems, LLC was near its expiration date and the claimant secured new employment with Smitty's Auto Sales prior to leaving his employment with Apex. Mr. King believed that the new employment was a betterment of pay and working conditions at the time he left his employment Apex Systems. After beginning work with Smitty's Auto Sales, Mr. King later discovered that he was being paid by commission only. Mr. King continued employment with Smitty's Auto Sales for approximately one week. The claimant was employed full-time basis at Smitty's Auto Sales, but he subsequently left that employer.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 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.

The evidence in the record establishes that Mr. King left his employment with Apex Systems after receiving a bonafide offer of employment from Smitty's Auto Sales that Mr. King accepted before resigning from Apex Systems on January 13, 2017. Mr. King left the employment with Apex Systems solely for the purpose of going to work full-time with the new employer. The claimant reasonably believed at the time of the bonafide offer work and its acceptance that the new job was a betterment of pay and working conditions. Mr. King performed services in the new employment.

Because the evidence in the record establishes that the claimant left employment in good faith for the sole purpose of accepting other or better employment which he did accept, and performed services in, the claimant is not subject to a benefit disqualification. Benefits related to wage credits earned with Apex Systems, LLC shall be charged to the unemployment compensation fund and not charged to Apex Systems, LLC.

DECISION:

The representative's decision date March 1, 2017, reference 01, is reversed. Claimant's is eligible to receive benefits providing that he meets all other eligible requirements. Benefits relating to wage credits the claimant earned with Apex Systems, LLC shall be charged to the unemployment compensation fund.

Terry P. Nice
Administrative Law Judge

Decision Dated and Mailed

scn/scn