

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

NATHAN WESTEMEIER
Claimant

APPEAL NO: 12A-UI-09331-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

KWIK TRIP INC
Employer

OC: 07/01/12
Claimant: Appellant (4)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Nathan Westemeier (claimant) appealed a representative's July 31, 2012 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits based upon his wage credits earned with Kwik Trip, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 27, 2012. The claimant participated in the hearing. Shelly Amen appeared on the employer's behalf. 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:

Did the claimant voluntarily quit for a disqualifying reason?

OUTCOME:

Modified. Benefits allowed; employer's account relieved of charge.

FINDINGS OF FACT:

The claimant started working for the employer on May 21, 2011. He worked part-time (20 – 25 hours per week) as a guest service coworker at the employer's Dunkerton, Iowa store, usually working shifts from 2:00 p.m. to 11:30 p.m. His last day of work was May 22, 2012. He was next scheduled to work a shift on May 26. He was a no-call, no-show for that shift and shifts thereafter.

The claimant had been working part-time jobs both at the employer and with another employer. The claimant graduated from high school on or about May 20. His other part-time employer then made the claimant a full-time employee effective May 21. The claimant worked two days, May 21 and May 22, where he worked both his new full-time job from 5:00 a.m. to 1:30 p.m., and then his part-time job with the employer from 2:00 p.m. to 11:30 p.m. He had intended on giving a notice to the employer that he was quitting because his other job had become full-time, but after he was a no-call, no-show for his shifts with the employer on May 26 and May 27

because of a personal issue, he decided not to return to work at all with the employer and not to bother giving notice. He subsequently established a claim for unemployment insurance benefits effective July 1, 2012 due to a holiday shut down with his new full time employer.

REASONING AND CONCLUSIONS OF LAW:

If the claimant voluntarily quit his employment, he is not eligible for unemployment insurance benefits unless it was for a non-disqualifying reason. Iowa Code § 96.5-1. One reason a voluntary quit is non-disqualifying is if an employee quits for the reason of accepting and entering into new employment. Iowa Code § 96.5-1-a. However, under these circumstances, the employer's account is also not subject to charge.

The claimant did voluntarily quit in order to engage in new full-time employment. The claimant is not disqualified from receiving benefits as a result of his quit from the employer in this case, but the employer's account will not be charged. Benefits are allowed, if the claimant is otherwise eligible.

DECISION:

The representative's July 31, 2012 decision (reference 01) is modified in favor of the claimant. The claimant voluntarily left his employment, but the quit was not disqualifying. The claimant is eligible for unemployment insurance benefits, provided he is otherwise eligible. The employer's account will not be charged.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/kjw