

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**CODY J DOSTART**  
Claimant

**BENTONS READY MIXED CONCRETE INC**  
Employer

**APPEAL 22A-UI-07997-DS-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 02/27/22**  
**Claimant: Appellant (4R)**

Iowa Code § 96.5(1) – Voluntary Quitting

**STATEMENT OF THE CASE:**

On March 25, 2022, Cody Dostart (claimant/appellant) filed an appeal from the March 23, 2022, Reference 01, unemployment insurance decision that denied benefits based upon the determination that he quit the employment voluntarily and without good cause attributable to the employer. The parties were properly notified about the hearing held by telephone on May 12, 2022. The claimant participated personally. The employer did not participate. The administrative law judge took notice of the administrative record.

**ISSUE:**

Did claimant voluntarily quit the employment with good cause attributable to employer?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds:

The claimant was employed full-time as a Ready Mix Driver beginning on August 12, 2019, and separated from the employment on December 17, 2021. The work was seasonal, and the claimant was laid off on December 17, 2021. On January 5, 2022, the claimant accepted another job with Aspro. The claimant advised the employer on January 15, 2022, that he had accepted the new job and would not be returning to work after the winter layoff but would be available during the winter if needed. Prior to this conversation, the claimant did not have reason to believe that the employer would have work available for him during the winter, as the employer only kept a limited number of employees active year-round. The employer advised the claimant that he would not be needed during the winter, and claimant then told the employer that he was quitting the employment at that time. The claimant started his new job on April 18, 2022. The claimant's job was not in jeopardy, and continuing work was available had he not left the employment.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment to accept employment elsewhere.

Iowa Code §96.5(1) 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.

In this case, it is undisputed that the claimant left his position voluntarily, and there was no good cause attributable to the employer.

Iowa Admin. Code r. 871-24.28(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 employment does not have to be covered employment and does not include self-employment.

The claimant testified that he left his job to accept another position with a different employer. The claimant is currently working for the new employer.

Iowa Admin. Code r. 871-23.43(5) provides:

(5) Sole purpose. 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. No charge shall accrue to the account of the former voluntarily quit employer.

Here, although the separation was without good cause attributable to the employer, and would, standing alone, disqualify the claimant from receiving benefits, the claimant left his employment in order to accept other employment and has performed services for the subsequent employer. As such, benefits are allowed and the account of this employer shall not be charged, provided the claimant is otherwise eligible.

**DECISION:**

The March 23, 2022, (Reference 01) unemployment insurance decision is MODIFIED in favor of appellant. The claimant voluntarily left the employment in order to accept other employment. Benefits are allowed, provided the claimant is otherwise eligible. The account of the employer (account number 035300) shall not be charged.

**REMAND:**

The administrative law judge REMANDS the issue of the claimant's ability to work and availability for work from January 15, 2021 through April 18, 2021, as outlined in the findings of fact.



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David J. Steen  
Administrative Law Judge  
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June 21, 2022  
Decision Dated and Mailed

djs/mh