

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JAMES E SMART**  
Claimant

**APPEAL NO: 17A-UI-11551-JE-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**PACKERS SANITATION SERVICES INC**  
Employer

**OC: 10/01/17**  
**Claimant: Respondent (4)**

Section 96.5-1 a – Voluntary Leaving – Other Employment

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the October 31, 2017, reference 01, decision that allowed benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on December 4, 2017. The claimant did not respond to the hearing notice and did not participate in the hearing or request a postponement of the hearing as required by the hearing notice. Andrea Ramirez, Employment Retention Program Coordinator, participated in the hearing on behalf of the employer.

**ISSUE:**

The issue is whether the claimant voluntarily left his employment to accept employment elsewhere.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time laborer for Packers Sanitation Services from July 26, 2017 to September 30, 2017. The employer performs cleaning services for Tyson. The employer lost the contract with Tyson for first and second shift. The claimant worked first shift. All affected employees were either going to be moved to third shift or hired by Tyson. The claimant left employment with Packers Sanitation Services to accept other employment at Tyson and performed services for that employer.

**REASONING AND CONCLUSIONS OF LAW:**

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

Iowa Code § 96.5-1-a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

Even though the separation was without good cause attributable to the employer and might, standing alone, disqualify the claimant from receiving benefits, the claimant did leave in order to accept other employment and did perform services for the subsequent employer. Accordingly, benefits are allowed and the account of Packers Sanitation Services shall not be charged.

**DECISION:**

The October 31, 2017, reference 01, decision is modified in favor of the appellant. The claimant voluntarily left his employment in order to accept other employment. Benefits are allowed provided the claimant is otherwise eligible. The account of this employer shall not be charged.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

je/scn