

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

VICTOR M HERRERA GONZALEZ
Claimant

APPEAL NO. 14A-UI-00243-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SEATON LLC
Employer

OC: 11/24/13
Claimant: Appellant (4-R)

Section 96.5(1) – Quit/Part-Time

STATEMENT OF THE CASE:

The claimant, Victor Herrera Gonzalez, filed an appeal from a decision dated December 30, 2013, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on January 30, 2014. The claimant participated on his own behalf and Ike Rocha acted as interpreter.

The employer provided a telephone number to the Appeals Section. That number was dialed at 12:59 p.m. and the only response was a voice mail. A message was left indicating the hearing would proceed without the employer's participation unless the witness contacted the Appeals Section prior to the close of the record. By the time the record was closed at 1:29 p.m. the employer had not responded to the message and did not participate in the hearing.

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

The claimant worked for Seaton beginning in the second quarter of 2013. He worked only one day per week while continuing his full-time employment with LL Pelling Company, Inc. He quit because he was going to be laid off from his full-time employment after which he would be out of the country visiting family in El Salvador. He was out of the country from December 7, 2013, until January 7, 2014.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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.

871 IAC 24.27 provides:

Voluntary quit of part-time employment and requalification. An individual who voluntarily quits without good cause part-time employment and has not requalified for benefits following the voluntary quit of part-time employment, yet is otherwise monetarily eligible for benefits based on wages paid by the regular or other base period employers, shall not be disqualified for voluntarily quitting the part-time employment. The individual and the part-time employer which was voluntarily quit shall be notified on the Form 65-5323 or 60-0186, Unemployment Insurance Decision, that benefit payments shall not be made which are based on the wages paid by the part-time employer and benefit charges shall not be assessed against the part-time employer's account; however, once the individual has met the requalification requirements following the voluntary quit without good cause of the part-time employer, the wages paid in the part-time employment shall be available for benefit payment purposes. For benefit charging purposes and as determined by the applicable requalification requirements, the wages paid by the part-time employer shall be transferred to the balancing account.

The claimant quit part-time work so he could go out of the country during his layoff at his full-time employer. This is not a disqualifying issue and if he is still monetarily eligible after wage credits with Seaton have been removed, he is eligible for benefits.

DECISION:

The unemployment insurance decision dated December 30, 2013, reference 01, is modified in favor of the appellant. Victor Herrera Gonzalez is qualified for benefits, provided he is otherwise eligible.

The issue of whether he is monetarily eligible after removal of his wage credits from Seaton is remanded to the Agency for determination.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs