

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JUSTIN M BAILEY
Claimant

APPEAL NO. 12A-EUCU-00015-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ARONA CORPORATION
Employer

OC: 12/12/10
Claimant: Respondent (2-R)

Section 96.5-1 – Voluntary Leave

STATEMENT OF THE CASE:

Arona Corporation filed a timely appeal from a representative's decision dated January 4, 2012, reference 01, which held the claimant eligible to receive unemployment insurance benefits. After due notice, a telephone hearing was held on February 9, 2012. Although duly notified, the claimant did not participate. The employer participated by Ms. Lisa Eastman, administrator.

ISSUE:

At issue is whether the claimant left employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having considered the evidence in the record, the administrative law judge finds: Justin Bailey was employed by Arona Corporation as a product delivery worker from August 25, 2011, until he voluntarily left work on November 14, 2011. Mr. Bailey was employed full-time and was paid by the hour. His immediate supervisor was Justin Wood.

Mr. Bailey resigned his position with Arona Corporation on November 14, 2011, when he came in and indicated that he was quitting because of "family and legal issues." Work continued to be available to the claimant at the time that he chose to leave employment.

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the evidence in the record establishes the claimant voluntarily left employment with good cause attributable to the employer. It does not.

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.

The claimant has the burden of proving the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2. An individual who voluntarily leaves their employment must first give notice to the employer of the reasons for quitting in order to give the employer an opportunity to address or resolve the complaint. See Cobb v. Employment Appeal Board, 506 N.W.2d 445 (Iowa 1993).

In the case at hand, Mr. Bailey left employment for personal reasons not related to his employment with Arona Corporation. As his reasons for leaving were not attributable to the employer, unemployment insurance benefits are withheld.

Iowa Code section 96.3-7, as amended in 2008, provides:

7. Recovery of overpayment of benefits.

- a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

- b. (1) If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5. However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment. The employer shall not be charged with the benefits.

- (2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the department to represent any employers in unemployment insurance matters. This subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

The issue of whether the claimant must repay unemployment insurance benefits is remanded to the Unemployment Insurance Services Division for a determination.

DECISION:

The representative's decision dated January 4, 2012, reference 01, is reversed. The claimant left employment without good cause attributable to the employer. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The issue of whether the claimant must repay unemployment insurance benefits is remanded to the Unemployment Insurance Services Division for a determination.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw