

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**JEFFREY S WOLLBERG**  
Claimant

**FAGEN INC**  
Employer

**APPEAL 15A-UI-01703-JCT**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 11/23/14**  
**Claimant: Appellant (4)**

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Iowa Code § 96.5(1)a – Voluntary Quitting/Other Employment

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the January 30, 2015, (reference 01) unemployment insurance decision that denied benefits based upon the claimant's separation. The parties were properly notified about the hearing. A telephone hearing was held on March 9, 2015. The claimant participated. Although properly notified, the employer did not participate.

**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: Claimant was employed full-time as a pipe welder and was separated from employment on October 3, 2014, when he resigned. Continuing work was available.

The claimant voluntarily resigned to accept another position in Texas. It was for the same position he held with the employer, but at a higher pay rate and with work available for two years. The working being performed for the employer was expected to end in December 2014.

**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-a 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. 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.

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.

Even though the separation was without good cause attributable to the employer and would, 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 the employer shall not be charged.

**DECISION:**

The January 30, 2015, (reference 01) decision is modified in favor of the 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, Fagen Inc., shall not be charged.

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Jennifer L. Coe  
Administrative Law Judge

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Decision Dated and Mailed

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