

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

STEPHEN W SHIVES

Claimant

APPEAL NO. 07A-UI-06608-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CHARLES GABUS FORD INC

Employer

**OC: 06/03/07 R: 02
Claimant: Appellant (1)**

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated June 25, 2007, reference 01, that concluded he voluntarily left part-time employment without good cause attributable to the employer, but he was not disqualified because he had sufficient wages from other employers on his claim. A telephone hearing was held on July 24, 2007. The parties were properly notified about the hearing. The claimant participated in the hearing. Lowell Dudzinski participated in the hearing on behalf of the employer.

ISSUE:

Did the claimant voluntarily quit employment without good cause attributable to the employer?

FINDINGS OF FACT:

The claimant worked part time for the employer doing shop cleanup work from May 2, 2002, to January 22, 2007. He voluntarily quit employment on January 22 because he was scheduled for ankle reconstruction surgery on January 24, 2007. He knew that he would be unable to work for a long period of time due to the surgery and the employer would need to hire someone to do the work and could not keep the job open for him. He did not ask for a leave of absence. He was not discharged and was not forced to quit by his employer but instead did so voluntarily. The ankle problem was not caused by or aggravated by his working conditions.

The claimant filed a new claim for unemployment insurance benefits with an effective date of June 3, 2007. Even without the wages from the employer, the claimant would be qualified for the maximum benefit amount of \$334.00 per week.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant voluntarily quit employment without good cause attributable to the employer.

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 voluntarily quit employment without good cause attributable to the employer because he decided to leave employment to allow the employer to replace him immediately. The job, however, was part time, and the claimant has sufficient wages from other employers to qualify to receive unemployment insurance benefits. Pursuant to the rule, the employer's account will not be subject to charge for benefits paid to the claimant.

DECISION:

The unemployment insurance decision dated June 25, 2007, reference 01, is affirmed. The claimant is not subject to disqualification based on his quit of his part-time job with the employer. He remains disqualified based on his separation from his full-time employer. The employer's account will be exempt from charge for benefits paid to the claimant.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs