

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ADAM W FEAR
Claimant

APPEAL NO. 10A-UI-04121-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

O'REILLY AUTOMOTIVE INC
Employer

OC: 02/14/10
Claimant: Respondent (1)

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The employer, O'Reilly Automotive, Inc. (O'Reilly), filed an appeal from a decision dated March 23, 2010, reference 01. The decision allowed benefits to the claimant, Adam Fear. After due notice was issued a hearing was held by telephone conference call on May 3, 2010. The claimant did not provide a telephone number where he could be contacted and did not participate. The employer participated by Store Manager Lou Talcott.

ISSUE:

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

FINDINGS OF FACT:

The representative's decision found the claimant had quit part-time work without good cause attributable to the employer. Because it was part-time work he was still eligible for unemployment benefits after the wages earned from this employer had been removed. The decision further stated the employer would not be charged based on wages earned prior to the separation.

The employer's witness did not know why an appeal was filed from a decision which was in favor of the company and did not disagree with the findings in the representative's decision.

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 employment without good cause attributable to the employer. Wages earned from the employer will be removed from his base period wages and the employer will not be charged.

DECISION:

The representative's decision of March 23, 2010, reference 01, is affirmed. Adam Fear is eligible for unemployment benefits, provided he is still monetarily eligible after the removal of wages earned from this employer. O'Reilly Automotive will not be charged based on wages earned prior to the separation date of December 16, 2008.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css