

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ROGER D MARCHANT
Claimant

INNOVATIVE AG SERVICES CO
Employer

APPEAL 19A-UI-09927-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 11/10/19
Claimant: Appellant (4R)**

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.5(1)g – Voluntary Leaving/Requalification
Iowa Code § 96.5(12) – Supplemental Part-time Employment
Iowa Admin. Code r. 871-24.27 – Voluntary Quitting – Part-time Employment

STATEMENT OF THE CASE:

On December 16, 2019, the claimant filed an appeal from the December 6, 2019, (reference 02) unemployment insurance decision that denied benefits based on a separation from employment. The parties were properly notified about the hearing. A telephone hearing was held on January 6, 2020. Claimant participated. Employer participated through human resource generalist III Sandy Kelchen. Employer's Exhibits 1 through 3 were received.

ISSUES:

Did claimant voluntarily quit the part-time 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 worked for employer from September 24 through 26, 2019, as a part-time, seasonal worker. Claimant kept his regular, full-time job with Hadwigger Roofing during this time period. Claimant was hoping to work for employer to supplement his full-time employment, but realized it was not working for him for personal reasons. Claimant resigned from the part-time, seasonal position on June 26, 2019. Claimant was laid off from employment with Hadwigger Roofing on November 7, 2019.

Claimant also worked for employer in the third and fourth quarters of 2018. The issue of that separation from employment is not in front of the administrative law judge. It appears that claimant has requalified for benefits since that separation from employment, but Iowa Workforce Development has not issued a decision on that matter.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment without good cause attributable to the employer, and has not requalified but appears to be otherwise monetarily eligible.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

Iowa Code section 96.5(12) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

12. Supplemental part-time employment. If the department finds that an individual is disqualified for benefits under subsection 1 or 2 based on the nature of the individual's separation from supplemental part-time employment, all wages paid by the supplemental part-time employer to that individual in any quarter which are chargeable following a disqualifying separation under subsection 1 or 2 shall not be considered wages credited to the individual until such time as the individual meets the conditions of requalification as provided for in this chapter, or until the period of disqualification provided for in this chapter has elapsed.

Workers who are disqualified from part-time employment based upon the reason for the separation may be eligible to receive reduced unemployment insurance benefits, provided they have sufficient wage credits from other base-period employers to remain monetarily eligible, and provided they are otherwise eligible. *Irving v. Emp't Appeal Bd.*, 883 N.W.2d 179 (Iowa 2016); codified on July 2, 2017, at Iowa Code § 96.5(12).

In this case, claimant worked for employer during the September 24 through 26, 2019, time period as a part-time, seasonal employee. Claimant had a regular, full-time employer during this time period and has sufficient wage credits from other base period employers to qualify for benefits.

This part-time employer will not be charged for any benefits claimant received based on the wage credits from the September 24 through 26, 2019, as this was merely supplemental employment for claimant. The wage credits earned during the September 24 through 26, 2019, time frame will also not be used to determine claimant's benefit amount until he requalifies for benefits by having worked in and been paid wages for insured work equal to ten times his weekly benefit amount.

Iowa Code section 96.5(1)g provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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:

g. The individual left work voluntarily without good cause attributable to the employer under circumstances which did or would disqualify the individual for benefits, except as provided in paragraph "a" of this subsection but, subsequent to the leaving, the individual worked in and was paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

Iowa Admin. Code r. 871-24.27 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 Form 65-5323, 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.

See also, McCarthy v. Iowa Emp't Sec. Comm'n, 76 N.W.2d. 201 (Iowa 1956) wherein the court held that persons who become unemployed by a layoff from their full-time employer cannot be disqualified for a previous voluntary quit from a part-time employer.

Inasmuch as claimant resigned for personal reasons, the separation is disqualifying. The claimant has not requalified for benefits since the separation but appears to be otherwise monetarily eligible according to base period wages. Thus, he is eligible for benefits based upon those other wages.

DECISION:

The December 6, 2019, (reference 02), unemployment insurance decision is modified in favor of the claimant. The claimant voluntarily left the employment without good cause attributable to the employer and has not requalified for benefits but is otherwise monetarily eligible. Benefits are allowed, provided claimant otherwise qualifies for benefits. The account of this part-time employer (339476) shall not be charged for any benefits based on wage credits earned during the September 24 through 26, 2019, time frame.

REMAND:

The issue of whether claimant has requalified for benefits since working for employer during fourth quarter of 2018 is remanded to the Benefits Bureau of Iowa Workforce Development for an initial determination.



Christine A. Louis
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

January 14, 2020
Decision Dated and Mailed

cal/scn