

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DAVID C BURK**  
Claimant

**APPEAL NO. 13A-UI-09443-LT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**LBD FARMS INC**  
Employer

**OC: 07/21/13  
Claimant: Appellant (4)**

Iowa Code § 96.5(1)g – Voluntary Leaving/Requalification

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the August 15, 2013, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on September 19, 2013. Claimant participated. Employer participated through owner, Laurence Dittmer.

**ISSUES:**

Did claimant voluntarily quit the employment with good cause attributable to employer?

Has the claimant requalified for benefits since the separation from this 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 seasonal farm helper/truck driver and last worked on November 1, 2012, at the end of the season. When Dittmer called him about returning to work in March or April 2013, he said he did not think he would because he was contracted to Monsanto in Boone, Iowa, to haul seed for them. Dittmer also has a truck there and is busy all the time, so he hired someone else. Continued seasonal work was available. Claimant is seasonally contracted to Monsanto via self-employment with Two B Trucking LLC (account number 369200).

Claimant has reported wages through his company in the third and fourth quarters of 2013 and the first and second (lag) quarters of 2013. The claimant has requalified for benefits since the separation from LBD Farms, Inc. (account number 349855) by the time he began claiming benefits effective July 21, 2013.

**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 but has requalified for benefits.

Iowa Code § 96.5-1-g 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:

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.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2).

Claimant did opt not to return for seasonal work in order to enter into self-employment, which is not a good-cause reason attributable to the employer for leaving and is a disqualifying separation. However, the administrative law judge further concludes from information contained in the administrative record that the claimant has requalified for benefits since the separation from this employer. Accordingly, benefits are allowed and the account of the employer LBD Farms, Inc. (account number 349855), shall not be charged.

**DECISION:**

The August 15, 2013, (reference 01) decision is modified in favor of the appellant. The claimant quit without good cause attributable to the employer, but has requalified for benefits since the separation. Benefits are allowed, provided the claimant is otherwise eligible. The account of the employer, LBD Farms, Inc., shall not be charged.

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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

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