

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DENNIS E BARTON
Claimant

APPEAL NO. 19A-UI-09452-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

URBANDALE COMM SCHOOLS
Employer

OC: 11/03/19
Claimant: Appellant (2)

Iowa Admin. Code r. 871-24.23(26) – Part-Time Worker – Same Wages and Hours
Iowa Code § 96.4-3 – Able and Available
Iowa Code § 96.7(2)A(2) – Partial Benefits
Iowa Code § 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated November 20, 2019, reference 01, which held claimant not able and available for work. After due notice, a hearing was scheduled for and held on December 27, 2019. Claimant participated personally. Employer participated by Loren DeKruyf.

ISSUES:

Whether claimant is still employed at the same hours and wages?

Whether claimant is eligible to receive partial benefits?

Whether claimant is able and available for work?

Whether claimant quit for good cause attributable to employer?

FINDINGS OF FACT:

At the time of filing for unemployment benefits, claimant worked occasionally for employer, Urbandale Community Schools, though he hadn't put in any hours in a month. Claimant worked for this base period employer, part time under the same terms and conditions as contemplated in the original contract of hire. Claimant also has other wages in the base period history.

Claimant was an occasional softball field maintenance worker for employer. He'd done this for the years of 2017 and 2018. Employer would call up claimant to do work, or claimant would just know what work needed to be done, and he'd do it. This year, claimant worked through Hubbell Realty at a golf course full time. Claimant believed that he could continue to work this job in addition to working at the golf course job, but only ended up working 70 hours for Urbandale Community Schools through the entire 2019 year.

At the end of the year claimant made the decision that it was not fair for Urbandale, Hubbell Realty or himself to continue working both jobs. Claimant quit his part time job such that he could devote his energy towards his full time employer.

Claimant initially filed for benefits in this matter when he was put on seasonal layoff from his position with Hubbell. At that time claimant was still employed by Urbandale Community Schools although he hadn't worked any hours for weeks, and had only worked 70 total hours in 2019. Claimant later resigned from his job with Urbandale Schools on November 15, 2019 as he believed he needed to focus on his other work and wanted Urbandale to have time to get a replacement.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5(1)a 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:
 - 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(4)a provides in part:

(4) Supplemental employment.

- a. An individual, who has been separated with cause attributable to the regular employer and who remains in the employ of the individual's part-time, base period employer, continues to be eligible for benefits as long as the individual is receiving the same employment from the part-time employer that the individual received during the base period. The part-time employer's account, including the reimbursable employer's account, may be relieved of benefit charges....

Initially, claimant remained employed, but not working any hours for Urbandale Community schools when laid off from Hubbell Realty. Claimant was eligible for benefits as he continued to work (or not work) the same hours as he'd been working during his base period. On November 15, 2019 claimant resigned from his position with Urbandale as claimant did not believe he could put forth his best effort to either job as long as he worked both. Claimant made the reasonable decision to focus on his full time work by quitting the part-time occasional work with Urbandale Public Schools. Said decision does not disqualify claimant from the receipt of benefits.

DECISION:

The November 20, 2019, reference 01, decision is reversed. Unemployment insurance benefits are allowed provided claimant is otherwise eligible. Employer's account will not be charged for benefits received by claimant.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed

bab/rvs