

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

DAVID K ROBERTS
Claimant

APPEAL NO: 19A-UI-01073-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

KELLY SERVICES USA LLC
Employer

OC: 01/06/19
Claimant: Respondent (4)

Section 96.5-1 a – Voluntary Leaving – Other Employment

STATEMENT OF THE CASE:

The employer filed a timely appeal from the January 30, 2019, reference 03, decision that allowed benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on February 21, 2019. The claimant participated in the hearing. Misty Martin, Commercial Recruiter, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant voluntarily left his employment to accept employment elsewhere.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a part-time material handler for Kelly Services last assigned to Anderson Erickson Dairy from September 17, 2018 to January 11, 2019. Continued work was available. The claimant left employment with Kelly Services to accept other full-time employment at People 360 and performed services for that employer.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment to accept employment elsewhere.

Iowa Code § 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.

Even though the separation was without good cause attributable to the employer and would, standing alone, disqualify the claimant from receiving benefits, the claimant did leave in order to accept other employment and did perform services for the subsequent employer. Accordingly, benefits are allowed and the account of Kelly Services USA shall not be charged.

DECISION:

The January 30, 2019, reference 03, decision is modified in favor of the appellant. The claimant voluntarily left his employment in order to accept other employment. Benefits are allowed, provided the claimant is otherwise eligible. The account of this employer shall not be charged.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/scn