

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MICHAEL VANDENBURG
Claimant

APPEAL NO. 10A-UI-04708-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CITY OF HAZELTON
Employer

**Original Claim: 02/21/09
Claimant: Respondent (1)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

The employer appealed a representative's March 16, 2010 decision (reference 01) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant voluntarily quit his employment for reasons that qualify him to receive benefits. A telephone hearing was held on May 6, 2010. The claimant participated in the hearing with his attorney, Ronald Martin. Pat Arthaud testified on the claimant's behalf. Carter Stevens, attorney at law, represented the employer. Wayne Holiday, the mayor, appeared on the employer's behalf. The parties stipulated that documents identified as Stipulated Exhibits 1 through 16 could be admitted. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit his employment for reasons that qualify him to receive benefits?

FINDINGS OF FACT:

The claimant started working for the employer on November 23, 2009. The employer hired the claimant to work as the full-time city clerk. (Stipulated Exhibit 9.) When the claimant started, Arthaud worked as the employer's treasurer. Arthaud worked part-time. (Stipulated Exhibit 4.)

When the claimant started his employment, the employer's financial records were not current. The employer hired people with experience to mentor the claimant and help train him because he had no previous experience as a city clerk. There was a lot of work to do to get the employer's records current. After the claimant began working, Holiday took over the mayor's office in January 2010. As a cost cutting measure, the employer decided to merge the treasurer's and clerk's offices. The employer noticed a majority of Iowa cities did not have both a city treasurer and clerk. The mayor and council decided they could review the city clerk's work to make sure the employer had a checks and balance system in place. The treasurer had done this before. Consolidation of clerk's and treasurer's office was made effective of February 2010.

The employer did not talk to the claimant or Arthaud about eliminating the treasurer's job and merging it with the city clerk's job. The claimant first learned about this proposal on January 14 when the employer asked him to put this item on the council's January agenda. During a

January 20, 2010 council meeting, the employer passed an ordinance that eliminated the treasurer's position. (Stipulated Exhibit 5.)

On January 25, 2010, the claimant gave the employer his written resignation. (Stipulated Exhibit 1.) The claimant informed the employer he had been accepted in an MBA program and was resigning because he agreed to work as the city clerk, not the city clerk and treasurer. The claimant questioned how the employer would implement a checks and balance system the treasurer had previously provided and was also concerned about personal liability he could incur as a result of the new ordinance. The claimant did not feel comfortable with his job responsibilities as the city clerk yet and felt even more uncomfortable with the addition of the treasurer's job and responsibilities. When the claimant resigned, he gave the employer a two-week notice or agreed to work until they hired a person to replace him. The claimant's last day of work was February 18, 2010.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer. Iowa Code § 96.5-1. A claimant has the burden to establish he quit with good cause attributable to the employer. Iowa Code § 96.6-2.

The law presumes a claimant quits with good cause when he leaves because of a substantial change in his employment. 871 IAC 24.26(1). The claimant accepted employment as a city clerk, not the city clerk and treasurer. The addition of another person's job duties, even a part-time employee, in addition to learning all the duties connected with the city clerk's, amounts to a substantial change in the claimant's employment under the fact of this case. While the employer asserted the claimant's job tasks would not substantially change, why would the employer have to merge the two jobs? Why not just eliminate the treasurer's job and allow the claimant to work as the city clerk? The claimant raised a valid concern about the lack of checks and balances the treasurer provided and would not be present by merging the two jobs. Given the fact the claimant had just recently started working for the employer, he was trying to learn the city clerk job, and the employer's records were not current, the claimant established he quit for reasons that qualify him to receive benefits. As of February 21, 2010, the claimant is qualified to receive benefits.

The employer is not one of the claimant's base period employers. During the claimant's current benefit year, the employer's account will not be charged.

DECISION:

The representative's March 16, 2010 decision (reference 01) is affirmed. The claimant voluntarily quit his employment for reasons that qualify him to receive benefits. As of February 21, 2010, the claimant is qualified to receive benefits, provided he meets all other eligibility requirements. During the claimant's current benefit, the employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw