

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MICHAEL GILBERT**  
Claimant

**APPEAL NO. 09A-UI-11982-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TRUGREEN LP**  
Employer

**Original Claim: 03-29-09  
Claimant: Respondent (1)**

Section 96.5-1 a – Voluntary Leaving – Other Employment

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the August 13, 2009, 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 September 3, 2009. The claimant participated in the hearing. Nick May, Branch Marketing Manager, and Lucy Hengen, Employer Representative, 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 full-time residential sales representative from April 13, 2009 to July 10, 2009. He left his employment with Trugreen to accept other employment at Riley Construction. The employer had continued work available.

**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 section 96.5-1-a 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:

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, he did leave in order to accept other employment and did perform services for the subsequent employer. Accordingly, benefits are allowed and the account of Trugreen shall not be charged.

**DECISION:**

The August 13, 2009, 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 Trugreen shall not be charged.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

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