

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DANA L WENDT
Claimant

APPEAL NO. 11A-UI-16489-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

EATON HYDRAULICS LLC
Employer

**OC: 11/20/11
Claimant: Respondent (4)**

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Eaton Hydraulics, L.L.C. (employer) appealed a representative's December 20, 2011 decision (reference 01) that concluded Dana L. Wendt (claimant) was qualified to receive unemployment insurance benefits after a separation from employment. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on January 25, 2012. The claimant participated in the hearing. Corey Hammer appeared on the employer's behalf. One other witness, Cathy McKibbon, was available on behalf of the employer but did not testify. 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 for a disqualifying reason?

OUTCOME:

Modified. Benefits allowed; employer's account relieved of charge.

FINDINGS OF FACT:

The claimant started working for the employer on January 21, 2011. He worked full-time as a machinist in the employer's Spencer, Iowa, pump and motor manufacturing facility. As of about August 1, 2011, the claimant moved from the third shift to the second shift. His last day of work was on or about August 26.

On or about Monday, August 29, the claimant heard some reports that the employer might be planning to do some layoffs by about mid-September, and that possibly he could be subject to a layoff. He called his team lead, who indicated he had heard nothing about any potential layoffs. However, because the claimant was concerned that he could be laid off from his job, he determined to seek other employment, and so called in an absence for that day. He spoke to a lawn service that was hiring, and was immediately offered a job; he started the next day, on or about August 30, working with the new employer, and ceased reporting for work with the employer. When his team lead later contacted him to ask why he was not reporting for work,

the claimant indicated it was because he had found new employment. Agency records do confirm wages with the new employer both in the third quarter 2011 and in the fourth quarter 2011.

REASONING AND CONCLUSIONS OF LAW:

If the claimant voluntarily quit his employment, he is not eligible for unemployment insurance benefits unless it was for a non-disqualifying reason. Iowa Code § 96.5-1. One reason a voluntary quit is non-disqualifying is if an employee quits for the reason of accepting and entering into new employment. Iowa Code § 96.5-1-a. However, under these circumstances, the employer's account is also not subject to charge.

The claimant did voluntarily quit in order to accept a bona fide offer of other employment, into which he did enter. The claimant is not disqualified from receiving benefits as a result of his quit from the employer in this case, but the employer's account will not be charged.

DECISION:

The representative's December 20, 2011 decision (reference 01) is modified in favor of the employer. The claimant voluntarily left his employment, but the quit was not disqualifying. The claimant is eligible for unemployment insurance benefits, provided he is otherwise eligible. The employer's account will not be charged.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/kjw