

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LEE E WERNER
Claimant

APPEAL NO. 10A-UI-01807-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

EDWARD KRAEMER & SON INC
Employer

**OC: 11/22/09
Claimant: Appellant (4)**

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The claimant, Lee Werner, filed an appeal from a decision dated January 25, 2010, reference 02. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on March 15, 2010. The claimant participated on his own behalf. The employer, Edward Kraemer and Sons, Inc. (Kraemer), did not provide a telephone number where a witness could be contacted and did not participate.

ISSUE:

The issue is whether the claimant quit work without good cause attributable to the employer.

FINDINGS OF FACT:

Lee Werner was employed by Kraemer from September 16 through 23, 2009, as a full-time crane operator. On September 21, 2009, a dispatcher from the union contacted the claimant to ask if he wanted to accept a job in Wisconsin. The claimant said no because he was still working at Kraemer.

On September 23, 2009, a foreman asked the entire work crew if anyone would accept a lay off. Mr. Werner volunteered because he thought he might still have a chance at the job in Wisconsin. That job was no longer available.

Lee Werner filed a claim for unemployment benefits with an effective date of November 22, 2009. His weekly benefit amount is \$374.00. He has earned more than ten times his weekly benefit amount with subsequent employers prior to filing his claim for benefits.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5-1-g 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:

g. The individual left work voluntarily without good cause attributable to the employer under circumstances which did or would disqualify the individual for benefits, except as provided in paragraph "a" of this subsection but, subsequent to the leaving, the individual worked in and was paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

The claimant accepted on a voluntary basis. He did not have to agree to the layoff but did so because he thought he had another job waiting for him. This turned out not to be the case and his accepting of the layoff is a voluntary quit which is a disqualifying event. But prior to filing his claim for benefits he requalified under the provisions of the above Code section by earning more than ten times his weekly benefit amount from other employers.

DECISION:

The representative's decision of January 25, 2010, reference 02, is modified in favor of the appellant. Lee Werner is qualified for benefits, provided he is otherwise eligible. The account of Edward Kraemer and Sons will not be charged with benefits paid to the claimant as a result of his separation on September 23, 2009.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs