

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PATRICK T BURSAU
Claimant

APPEAL NO. 10A-UI-02519-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WELLS FARGO BANK NA
Employer

**Original Claim: 01/17/10
Claimant: Appellant (4)**

Section 96.5(1)a – Quit/Other Employment

STATEMENT OF THE CASE:

The claimant, Patrick Bursau, filed an appeal from a decision dated February 10, 2010, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on April 6, 2010. The claimant participated on his own behalf. The employer, Wells Fargo, participated by Lending Manager Cindy Nicodemus and was represented by Barnett Associates in the person of Shardo Stevens.

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

Patrick Bursau was employed by Wells Fargo from December 10, 1994 until May 21, 2010 as a full-time consumer loan underwriter. He had been working from home but was to return to working in the office effective May 22, 2009. Around that time, a friend in Phoenix, Arizona, offered him work, as the friend's business was expanding. Mr. Bursau faxed a resignation to Loan Administration Manager Jeremy Allen and Lending Manager Cindy Nicodemus stating he had been offered an opportunity outside of Wells Fargo and was quitting effective immediately.

The job in the friend's business was scheduled to begin July 1, 2009, but on June 12, 2009, the friend notified him the expected new contracts had not materialized and he did not have a position for Mr. Bursau after all. The claimant has not worked since May 2009.

REASONING AND CONCLUSIONS OF LAW:

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.

871 IAC 24.28(5) provides:

Voluntary quit requalifications and previously adjudicated voluntary quit issues.

(5) The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment.

The claimant quit because he had a firm job offer and a fixed starting date with another company. Before he could begin that employment, the offer was revoked through no fault of the claimant's. Under the provisions of the above Administrative Code section, this is a voluntary quit without good cause attributable to the employer. But, the claimant is qualified for benefits because he left in good faith to accept the other work, which did not materialize as promised.

DECISION:

The representative's decision of February 10, 2010, reference 01, is modified in favor of the appellant. Patrick Bursau is qualified for benefits, provided he is otherwise eligible. The account of Wells Fargo shall not be charged with benefits paid to the claimant.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/kjw