

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

WILLIAM W LESTER
Claimant

APPEAL NO. 14A-UI-10706-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CENTERVILLE COMM SCH DIST
Employer

OC: 09/14/14
Claimant: Appellant (2)

Section 96.5-2-a – Discharge for Misconduct
Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated September 30, 2014, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on November 30, 2014. Claimant participated personally and was represented by counsel Edward Cox. Employer participated by Tony Ryan and Linda Henderson. Claimant's Exhibits A and B were admitted into evidence.

ISSUES:

The issues in this matter are whether claimant was discharged for misconduct or whether claimant quit for good cause attributable to employer in lieu of discharge.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on August 22, 2014. Claimant resigned on September 12, 2014. Claimant was given the chance to resign or face discharge. Claimant would have faced discharge but for the involuntary resignation. Claimant quit because he believed he would be discharged if he didn't resign. Claimant reached an agreement with employer that employer would not dispute claimant's unemployment claim if he would resign. Claimant's resignation conferred a benefit on employer by making it such that employer did not have to go through the process necessary to fire a school employee.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 96.5-1 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.

Iowa Admin. Code r. 871-24.26(21) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(21) The claimant was compelled to resign when given the choice of resigning or being discharged. This shall not be considered a voluntary leaving.

Claimant quit in lieu of facing discharge from employment. This is not a disqualifiable event because claimant involuntarily separated from employment to avoid the discharge. The rules specifically state that benefits shall be allowed when a person quits in lieu of discharge. The section heading defines the reason for the list as: "The following are reasons for a claimant leaving employment with good cause attributable to the employer." 871IAC24.26. The rule in question is found at paragraph number 21. Nothing in this entire rule mentions a misconduct analysis. Nothing in the sections allows for an exception. The rule states that this is not a voluntary leaving. It is not a true voluntary quit nor is it a discharge. It is an involuntary quit, a different type of separation not disqualifying under Iowa Code Section 96.5-1 as a voluntary quit nor under 96.5-2-A as a discharge for misconduct. Nothing is said about shifting the issue to misconduct. Nor is there any indication that the legislature intended for any of the examples under the rule be for any other reason than for "leaving employment with good cause."

The administrative law judge holds that claimant was not discharged for an act of misconduct and was not a voluntary quit and, as such, is not disqualified for the receipt of unemployment insurance benefits. This is a quit for good cause attributable to employer based on the administrative rule.

DECISION:

The decision of the representative dated September 30, 2014, reference 01, is reversed. Claimant is eligible to receive unemployment insurance benefits, provided claimant meets all other eligibility requirements.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed

bab/can