

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOHN A JOHNSON
Claimant

APPEAL NO. 12A-UI-10640-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MANPOWER INTERNATIONAL INC
Employer

OC: 10/09/12
Claimant: Respondent (4-R)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated August 21, 2012, reference 03, that concluded the claimant was not subject to disqualification for not returning to work after being laid off. A telephone hearing was held on September 28, 2012. The parties were properly notified about the hearing. The claimant failed to participate in the hearing. Bill Schiller participated in the hearing on behalf of the employer.

ISSUE:

Did the claimant voluntarily quit employment without good cause attributable to the employer?

FINDINGS OF FACT:

The employer is a staffing company that provides workers to client businesses on a temporary or indefinite basis. The claimant worked for the employer as a general laborer on an assignment at Ajinomoto USA in Eddyville, Iowa, until July 27, 2012, when he was temporarily laid off due to lack of work. His rate of pay was \$10.50 per hour.

Before the assignment ended, the branch manager informed the claimant that the employer had a full-time assignment for him working for Wacker Biosolutions in Eddyville at a rate of pay of \$12.50. The claimant called the employer on July 30, 2012, and said he was not interested in the new assignment because he had accepted another job through Advanced Services at Pioneer. If the claimant would have continued on the assignment with the employer, he could have started the week of July 30, 2012.

The claimant reported he had no wages during the week ending August 4, and started reporting wages of more than his weekly benefit amount in the following weeks.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant voluntarily quit employment without good cause attributable to the employer.

Iowa Code § 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.

The claimant is not subject to a disqualification requiring him to earn ten times his weekly benefit amount in subsequent employment since he informed the employer that he was quitting employment to take another job. However, he would not be eligible for benefits for the week of August 4 because he could have worked full time for the employer during that week. See 871 IAC 24.23(29) (a claimant who fails to work the major portion of a scheduled workweek for his employer is ineligible for benefits).

The branch manager testified that the claimant worked 32 hours during the week ending July 28, 2012, at a rate of pay of \$10.50 for a total of \$336.00 in earnings. The claimant only reported \$84.00 in earnings. The issue of whether the claimant properly reported his earning for the week ending July 28 and was overpaid any benefits is remanded to the agency.

DECISION:

The unemployment insurance decision dated August 21, 2012, reference 03, is modified in favor of the employer. The claimant is not subject to a separation disqualification, but is ineligible for benefits for the week ending August 4, 2012, because he could have worked full time for the employer during the week. The issue of whether the claimant properly reported his earning for the week ending July 28, 2012, and was overpaid any benefits is remanded to the agency.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css