

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DUSTIN R HERWEHE
Claimant

APPEAL NO. 11A-UI-05883-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CENTRAL STATES ROOFING COMPANY
Employer

OC: 03/20/11
Claimant: Appellant (2)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Dustin Herwehe (claimant) appealed a representative's April 21, 2011 decision (reference 01) that concluded he was not eligible to receive unemployment insurance benefits because he voluntarily quit work with Central States Roofing Company (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for May 27, 2011. The claimant participated personally. The employer participated by Mark Hanson, President.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on September 11, 1998, as a full-time roofer. On March 10, 2011, the claimant notified the employer that he was resigning effective March 17, 2011. The claimant was offered and accepted work with Central Trailer in Altoona, Iowa, and was to start on March 21, 2011. The claimant's last day of work was March 17, 2011. On March 20, 2011, Central Trailer notified the claimant that they did not need his services. Continued work was available with the employer had the claimant not resigned.

REASONING AND CONCLUSIONS OF LAW:

For the following reasons the administrative law judge concludes the claimant is eligible to receive unemployment insurance benefits after his separation from work.

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 left his position with the employer to work for another employer. When an employee quits work to take other employment, he is not disqualified from receiving unemployment insurance benefits. The claimant quit work to take other employment. He voluntarily quit without good cause attributable to the employer. Benefits are allowed because the claimant left to take other employment. The employer will not be charged.

DECISION:

The representative's April 21, 2011 decision (reference 01) is reversed. The claimant voluntarily left work without good cause attributable to the employer. The claimant is not disqualified from receiving unemployment insurance benefits because he quit to take other employment. The employer will not be charged.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/css