

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BRIAN K HIGGS

Claimant

APPEAL NO. 12A-UI-11749-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

REMEDY INTELLIGENT STAFFING

Employer

OC: 09/02/12

Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

Section 96.4-6-a – Department Approved Training

871 IAC 24.39(2) – Department Approved Training – Able and Available

STATEMENT OF THE CASE:

Brian Higgs (claimant) appealed a representative's September 21, 2012 decision (reference 01) that concluded he was not eligible to receive unemployment insurance benefits because he voluntarily quit work with Remedy Intelligent Staffing (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for October 25, 2012. The claimant participated personally. The employer participated by Laren Sharon, Branch Manager.

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 in April 2009, as a temporary worker assigned to work as a full-time line leader at General Mills. The claimant worked through the end of November 2011, when he became a full-time student. Continued work was available had the claimant not resigned.

The claimant filed a claim for unemployment insurance benefits with an effective date of September 4, 2011. He exhausted his benefits on this claim and filed a new claim for unemployment insurance benefits with an effective date of September 2, 2012. The claimant is approved for Department Approved Training (DAT) status from August 25, 2012, to February 16, 2013.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant voluntarily quit work without good cause attributable to the employer.

Iowa Code section 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.

871 IAC 24.25(26) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(26) The claimant left to go to school.

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980). The claimant's intent to leave employment was evidenced by his words and actions. He told the employer that he was quitting and voluntarily quit work. When a claimant quits work to become a full-time student, the leaving is without good cause attributable to the employer. The claimant quit work to become a full-time student. His leaving is without good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

871 IAC 24.39 provides:

Department-approved training or retraining program. The intent of the department-approved training is to exempt the individual from the work search requirement for continued eligibility for benefits so individuals may pursue training that will upgrade necessary skills in order to return to the labor forces. In order to be eligible for department-approved training programs and to maintain continuing participation therein, the individual shall meet the following requirements:

(1) Any claimant for benefits who desires to receive benefits while attending school for training or retraining purposes shall make a written application to the department setting out the following:

a. The educational establishment at which the claimant would receive training.

b. The estimated time required for such training.

c. The occupation which the training is allowing the claimant to maintain or pursue.

(2) A claimant may receive unemployment insurance while attending a training course approved by the department. While attending the approved training course, the claimant need not be available for work or actively seeking work. After completion of department-

approved training the claimant must, in order to continue to be eligible for unemployment insurance, place no restriction on employability. The claimant must be able to work, available for work and be actively searching for work. In addition, the claimant may be subject to disqualification for any refusal of work without good cause after the claimant has completed the training.

(3) The claimant must show satisfactory attendance and progress in the training course and must demonstrate that such claimant has the necessary finances to complete the training to substantiate the expenditure of unemployment insurance funds.

This rule is intended to implement Iowa Code section 96.4(6).

The able and available requirement is waived due to claimant's DAT status pursuant to 871 IAC 24.39(2).

DECISION:

The representative's September 21, 2012 decision (reference 01) is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount provided the claimant is otherwise eligible. The able and available requirement is waived due to claimant's DAT status pursuant to 871 IAC 24.39(2).

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/css