

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

EMIGDIO RAMIREZ
Claimant

APPEAL NO: 10A-UI-01435-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

L A LEASING INC
Employer

OC: 12-06-09
Claimant: Appellant (4R)

Iowa Code Section 96.5-1 - Voluntary Quit
871 IAC 24.27 - Voluntary Quit of Part-Time Employment

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated January 14, 2010, reference 01, which held that the claimant was not eligible for unemployment insurance benefits because he voluntarily quit his job. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 9, 2010, before Administrative Law Judge Julie Elder. The claimant participated in the hearing. Chad Baker, Worker's Compensation Administrator for the Corporate Office and Carrie Cannon, Lead Account Manager in Sedona's Staffing in Dubuque, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant's voluntary separation from his part-time employment qualifies him to receive unemployment insurance benefits.

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 employed as a part-time deck hand/kitchen help for Spirit of Dubuque from April 24, 2009 to December 28, 2009. The assignment ended due to a lack of work. The client did not notify the employer the assignment ended until January 18, 2010, and the claimant did not inform the employer the job ended until January 22, 2010. The employer's availability sheet, which is contained on a separate form, states that employees must call in within three working days of the end of the assignment. The claimant signed the form and received a copy of it April 23, 2009. The claimant was laid off from his full-time job with Perfection Concrete December 5, 2009, and expects to return to work there within the next week or two. When he told the employer January 22, 2010, that his assignment with the Spirit of Dubuque had ended he told it he was not looking for other work because he is a full-time student on a seasonal layoff.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the reasons for the claimant's separation from employment qualify him to receive unemployment insurance benefits.

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 24.27 provides:

Voluntary quit of part-time employment and requalification. An individual who voluntarily quits without good cause part-time employment and has not requalified for benefits following the voluntary quit of part-time employment, yet is otherwise monetarily eligible for benefits based on wages paid by the regular or other base period employers, shall not be disqualified for voluntarily quitting the part-time employment. The individual and the part-time employer which was voluntarily quit shall be notified on the Form 65-5323 or 60-0186, Unemployment Insurance Decision, that benefit payments shall not be made which are based on the wages paid by the part-time employer and benefit charges shall not be assessed against the part-time employer's account; however, once the individual has met the requalification requirements following the voluntary quit without good cause of the part-time employer, the wages paid in the part-time employment shall be available for benefit payment purposes. For benefit charging purposes and as determined by the applicable requalification requirements, the wages paid by the part-time employer shall be transferred to the balancing account.

The claimant has the burden of proving that the voluntary quit was for a good reason that would not disqualify him. Iowa Code section 96.6-2. The claimant completed the assignment but voluntarily quit his job with the employer by failing to notify it the assignment ended within three working days of the completion of his assignment. However, an individual who quits part-time employment without good cause, yet is otherwise monetarily eligible based on wages paid by other base-period employers, shall not be disqualified for voluntarily quitting the part-time employment. Benefit payments shall not be based on wages paid by the part-time employer and charges shall not be assessed against the part-time employer's account. Once the individual has met the requalification requirements, the wages paid from the part-time employment can be used for benefit payment purposes. 871 IAC 24.27. Based on this regulation, this matter is remanded to the Claims Section to determine whether the claimant is monetarily eligible to receive unemployment insurance benefits when the wage credits the claimant earned while working for the employer are not used in determining the claimant's monetary eligibility or his maximum weekly benefit amount.

DECISION:

The unemployment insurance decision dated January 14, 2010, reference 01, is modified in favor of the appellant. The claimant voluntarily quit his part-time employment for disqualifying reasons. Therefore, the employer's account will not be charged. This matter is remanded to the Claims Section to determine whether the claimant is monetarily eligible to receive unemployment insurance benefits and to determine what his maximum weekly benefit amount is when the wage credits the claimant earned from the employer are not taken into consideration to determine these two issues.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs