

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SEAN M SCHEIBE

Claimant

APPEAL NO: 14A-UI-04173-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

LITTLE DONKEYS INC

Employer

OC: 03/09/14

Claimant: Appellant (4)

Section 96.5-1 – Voluntary Leaving/Requalification

STATEMENT OF THE CASE:

Sean M. Scheibe (claimant) appealed a representative's April 9, 2014 decision (reference 06) that concluded he was not qualified to receive unemployment insurance benefits after a separation from employment from Little Donkeys, Inc. (employer). Hearing notices were mailed to the parties' last-known addresses of record for a telephone hearing to be held on May 9, 2014. A review of the Appeals Section's conference call system indicates that the claimant failed to respond to the hearing notice and provide a telephone number at which he could be reached for the hearing and did not participate in the hearing. The employer responded to the hearing notice and indicated that Lynn Hennings would participate as the employer's representative. When the administrative law judge contacted the employer for the hearing, Mr. Hennings agreed that the administrative law judge should make a determination based upon a review of the available information. Based on a review of the available information and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision. Prior to the hearing being held, the administrative law judge determined that no hearing was necessary and a decision was made on the record.

ISSUE:

Did the claimant voluntarily quit, and if so is he disqualified from receiving unemployment insurance benefits?

FINDINGS OF FACT:

The claimant voluntarily quit his employment with the employer as of November 6, 2013. He established an unemployment insurance benefit year effective March 9, 2014. His weekly benefit amount was calculated to be \$332.00. Since November 6, 2013 and prior to March 9, 2014 he earned covered wages in other employment in excess of \$3,332.00.

REASONING AND CONCLUSIONS OF LAW:

Rule 871 IAC 24.25 provides that, 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 claimant did express

his intent not to return to work with the employer. A voluntary leaving of employment requires an intention to terminate the employment relationship. *Bartelt v. Employment Appeal Board*, 494 N.W.2d 684 (Iowa 1993). The claimant did exhibit the intent to quit and did act to carry it out. The claimant would normally be disqualified for unemployment insurance benefits unless he voluntarily quit for good cause. The claimant has not satisfied that burden.

However, the administrative law judge further concludes from information contained in the administrative record that the claimant has requalified for benefits since the separation from this employer by earning ten times his weekly benefit amount after the separation. Iowa Code § 96.5-1-g. Accordingly, benefits are allowed and the account of the employer shall not be charged.

DECISION:

The representative's April 9, 2014 decision (reference 06) is modified in favor of the appellant. The claimant voluntarily left his employment without good cause attributable to the employer, but has requalified for benefits since the separation. Benefits are allowed as of March 9, 2014, provided the claimant is otherwise eligible. The account of the employer shall not be charged.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs