

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TIMOTHY A CARD

Claimant

APPEAL 17A-UI-00467-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

TRI CITY ELECTRIC CO OF IOWA

Employer

OC: 3/13/16

Claimant: Appellant (4)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the January 6, 2017 (reference 01) unemployment insurance decision that held claimant ineligible for unemployment insurance benefits. The parties were properly notified about the hearing. A telephone hearing was held on February 3, 2017. Claimant, Timothy A. Card, participated personally. Employer, Tri City Electric Co. of Iowa, participated through witness Nicole Leyendecker. Claimant's Exhibit A was admitted.

ISSUES:

Was the claimant discharged for disqualifying job-related misconduct?
Did claimant voluntarily quit the employment with good cause attributable to employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as a journeyman wireman from April 19, 2016 and was separated from employment on July 25, 2016, when he voluntarily quit.

Prior to quitting his employment with this employer, the claimant had been offered and had accepted a position with Electric Construction Company. He began working for that employer on July 27, 2016.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge finds that the claimant voluntarily left the employment to accept employment elsewhere.

Iowa Code §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.

Iowa Admin. Code r. 871-24.28(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 employment does not have to be covered employment and does not include self-employment.

Iowa Admin. Code r. 871-23.43(5) provides:

(5) Sole purpose. 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. No charge shall accrue to the account of the former voluntarily quit employer.

Even though the separation was without good cause attributable to the employer, and would, standing alone, disqualify the claimant from receiving benefits, the claimant did leave the employment in order to accept other employment but was separated after having started the new employment. As such, benefits are allowed and the account of the employer shall not be charged.

DECISION:

The January 6, 2017 (reference 01) unemployment insurance decision is modified in favor of the appellant. The claimant voluntarily left the employment in order to accept other employment. Benefits are allowed, provided the claimant is otherwise eligible. The account of the employer (account number 001729-000) shall not be charged.

Dawn Boucher
Administrative Law Judge

Decision Dated and Mailed

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