

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DAVID B SCHMITT
Claimant

APPEAL NO. 12A-UI-03857-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

USA STAFFING INC
LABOR WORLD OF IOWA
Employer

OC: 02-26-12
Claimant: Appellant (4)

Iowa Code § 96.5(1)a – Voluntary Leaving/Other Employment

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the April 2, 2012, reference 02, decision that denied benefits. After due notice was issued, a hearing was held on April 30, 2012. The claimant did participate. The employer did not participate.

ISSUE:

Did the claimant voluntarily quit his employment without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was assigned to work as a flagger from early spring 2011 through October 16, 2011 when he voluntarily quit to accept other employment. The claimant knew that the flagging season was coming to an end so he sought and obtained other employment with Lumbar Specialties. If the claimant had not quit, there was continuing work available for him with USA Staffing/Labor World.

REASONING AND CONCLUSIONS OF LAW:

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

Iowa Code § 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.

871 IAC 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 in order to accept other employment with Lumbar Specialties and did perform services for the subsequent employer. Accordingly, benefits are allowed and the account of the employer shall not be charged.

DECISION:

The April 2, 2012 (reference 02) decision is modified in favor of the appellant. The claimant voluntarily left his employment in order to accept other employment. Benefits are allowed, provided the claimant is otherwise eligible. The account of the employer (account number 259568) shall not be charged.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/css