

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MICHAEL SHAW
Claimant

FEDEX GROUND PACKAGE SYSTEM INC
Employer

APPEAL 21A-UI-17767-CS-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 05/30/21
Claimant: Appellant (4)

Iowa Code §96.5(2)a-Discharge/Misconduct
Iowa Code §96.5(1)- Voluntary Quit

STATEMENT OF THE CASE:

On May 30, 2021, the claimant/appellant filed an appeal from the August 6, 2021, (reference 01) unemployment insurance decision that disallowed benefits based on claimant voluntarily quitting for personal reasons. The parties were properly notified about the hearing. A telephone hearing was held on October 4, 2021. Claimant participated at the hearing. Employer participated through Richmond Starrett.

ISSUE:

Was the separation a layoff, discharge for misconduct, or voluntary quit without good cause ?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on October 6, 2020. Claimant last worked as a part-time package handler. Claimant was separated from employment on February 1, 2021, when he voluntarily quit.

Claimant was working for the employer and was notified that he was going to transition over to a FedEx Delivery Driver. In order to be a delivery driver you have to work for a company that subcontracts with FedEx. Claimant could not work both jobs because it was a conflict of interest. Claimant quit his employment to take the new job as a delivery driver. If claimant did not take the new job he had continuing work available with the employer.

Claimant's base period consisted of the following total wages: 1st quarter of 2020=\$7,046.00; 2nd quarter of 2020=\$3,252.00; 3rd quarter of 2020=\$0.00; 4th Quarter of 2020= \$7,506.00. (WAGE-A).

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left employment without good cause attributable to the employer, but has not requalified and is otherwise monetarily eligible.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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 Code section 96.5(1)g provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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:

g. The individual left work voluntarily without good cause attributable to the employer under circumstances which did or would disqualify the individual for benefits, except as provided in paragraph "a" of this subsection but, subsequent to the leaving, the individual worked in and was paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

Iowa Admin. Code r. 871-24.27 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 Form 655323, 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.

This rule is intended to implement Iowa Code section 96.5(1)g.

The separation from this employer is disqualifying and the claimant has not requalified for benefits since the separation. However, he is otherwise monetarily eligible according to base period wages. Benefits are allowed, provided the claimant is otherwise eligible.

DECISION:

The August 6, 2021, reference 01, decision is modified in favor of the appellant. The claimant voluntarily left the employment without good cause attributable to the employer and has not requalified for benefits but is otherwise monetarily eligible. Benefits are allowed, provided the claimant is otherwise eligible. The account of this employer shall not be charged.



Carly Smith
Administrative Law Judge
Unemployment Insurance Appeals Bureau

October 6, 2021
Decision Dated and Mailed

cs/mh