

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RONALD L DIGGS
Claimant

APPEAL NO. 13A-UI-02648-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

LF STAFFING SERVICES INC
Employer

OC: 01/13/13
Claimant: Appellant (4R)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated March 5, 2013, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on April 2, 2013. Claimant and employer agreed to the alternative hearing date. Claimant participated. Employer participated by Jim Clyde, Assistant Manager.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on January 4, 2013. Claimant called in absent for January 6. Claimant was absent due to incarceration. Claimant was in jail for a week due to a domestic dispute. Claimant worked for employer as a part-time employee.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because he was incarcerated. This is not good cause for a quit. However, claimant left part-time employment and as such is eligible for benefits based on work for other employers if credits are available. This matter is remanded for determination of eligibility based on credits from other employers.

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 24.25(16) provides:

Voluntary quit without good cause. 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 employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(16) The claimant is deemed to have left if such claimant becomes incarcerated.

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.

DECISION:

The decision of the representative dated March 5, 2013, reference 01, is modified and remanded. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible based on credits from other employers. Employer's account shall not be charged.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/pjs