

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TODD P ROHRET**  
Claimant

**APPEAL NO: 13A-UI-10316-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**LENSCRAFTERS INC**  
Employer

**OC: 08/11/13**

**Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Leaving  
Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

Todd P. Rohret (claimant) appealed a representative's September 5, 2013 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits after a separation from employment from Lenscrafters, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 4, 2013. The claimant participated in the hearing. Robin Moore of Equifax/TALX Employer Services appeared on the employer's behalf and presented testimony from one other witness, Jessica Brown. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Was there a disqualifying separation from employment either through a voluntary quit without good cause attributable to the employer or through a discharge for misconduct?

**FINDINGS OF FACT:**

The claimant started working for the employer on February 4, 1997. As of about December of 2011 he worked full time as lab manager in the employer's Des Moines, Iowa store. His last day of work was July 5, 2013.

The claimant had been placed on a performance improvement plan on May 30. He was scheduled for a review of that plan in 30 days. In the interim he received a warning for a customer complaint on quality on June 20, 2013. When the claimant came in for work on July 5 the general manager, Brown, and two regional managers met with him to discuss his performance and review the issues. One of the managers commented that the claimant needed to show instant results in improvement, and so that he needed to make a decision as to what he wanted to do. He did not tell the claimant he could either quit or he would be fired. The employer was seeking to have the claimant make a commitment as to his intention to make an immediate improvement. However, the claimant advised the employer that he would resign; he signed a resignation form yet that day.

## **REASONING AND CONCLUSIONS OF LAW:**

A voluntary quit is a termination of employment initiated by the employee – where the employee has taken the action which directly results in the separation; a discharge is a termination of employment initiated by the employer – where the employer has taken the action which directly results in the separation from employment. 871 IAC 24.1(113)(b), (c). A claimant is not eligible for unemployment insurance benefits if he quit the employment without good cause attributable to the employer or was discharged for work-connected misconduct. Iowa Code §§ 96.5-1; 96.5-2-a.

The claimant asserts that his separation was not “voluntary” as he had not desired to end the employment; he argues that the employer had effectively told him that if he did not quit he would be discharged, and so the separation should be treated as a discharge for which the employer would bear the burden to establish it was for misconduct. Iowa Code § 96.6-2; 871 IAC 24.26(21). The claimant has not established that had he not quit, he would in fact have been discharged on that day. 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 rule further provides that there are some actions by an employee which are construed as being voluntary quit of the employment, such as where an employee believes that he is going to be or has been discharged, but where the employer has not told the claimant that he is discharged. 871 IAC 24.25(33).

The claimant agreed to leave the employment even though the employer had made no decision to discharge the claimant on that day had he not quit; therefore, the separation is considered to be a voluntary quit. The claimant then has the burden of proving that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. Leaving because a reprimand has been given is not good cause. 871 IAC 24.25(28). The claimant has not satisfied his burden. Benefits are denied.

## **DECISION:**

The representative’s September 5, 2013 decision (reference 01) is affirmed. The claimant voluntarily left his employment without good cause attributable to the employer. As of July 5, 2013, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

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