

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

RANDALL R MOSHER
1419 VANDEBERG CR
SERGEANT BLUFF IA 51054

RRH OF ILLINOIS INC
CALCARS HYUNDAI
1230 E STATE ST
ROCKFORD IL 61104

Appeal Number: 04A-UI-09076-HT
OC: 07/25/04 R: 01
Claimant: Appellant (4)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-1 – Quit
Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant, Randall Mosher, filed an appeal from a decision dated August 19, 2004, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on September 15, 2004. The claimant participated on his own behalf. The employer, RRH of Illinois, Inc. (RRH), participated by Manager Scott Stockdale and was represented by ADP in the person of Gregory Anello

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Randall Mosher was employed by RRH from April 2003 until July 29, 2004. He was a full-time sales consultant.

On July 29, 2004, Manager Scott Stockdale was counseling the claimant regarding a customer complaint. Mr. Stockdale asked Mr. Mosher if he was happy at his job and the claimant admitted he was not, he had been dissatisfied with some of the changes in management. He also indicated he had accepted another job with an insurance company but it would be three weeks before he could complete all the testing to become licensed. The employer accepted his resignation immediately.

REASONING AND CONCLUSIONS OF LAW:

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(38) 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:

(38) Where the claimant gave the employer an advance notice of resignation which caused the employer to discharge the claimant prior to the proposed date of resignation, no disqualification shall be imposed from the last day of work until the proposed date of resignation; however, benefits will be denied effective the proposed date of resignation.

The claimant announced his intention to quit in three weeks in order to accept other employment. When the employer accepted his resignation immediately, this must be considered an involuntary separation on that date. Under the provisions of the above Administrative Code section, the claimant would be qualified for benefits from July 25 through August 14, 2004, the time period between his separation and his proposed resignation date. After that date he is disqualified as he was quitting without good cause attributable to the employer.

DECISION:

The representative's decision of August 19, 2004, reference 01, is modified in favor of the appellant. Randall Mosher is qualified for benefits for the period July 24 through August 14, 2004. After that date he is disqualified.

bgh/pjs