

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GARY McROBERTS
Claimant

APPEAL NO. 11A-UI-15016-WT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ANNETT HOLDINGS INC
Employer

**OC: 10/16/11
Claimant: Respondent (1)**

Section 96.5-2-a – Discharge for Misconduct
Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Employer filed an appeal from a fact-finding decision dated November 9, 2011, reference 01, which held claimant eligible for unemployment insurance benefits from October 16, 2011 to November 5, 2011. After due notice, a telephone conference hearing was scheduled for and held on December 15, 2011. Claimant participated personally. Employer was represented by Marcie Schneider, Talx Representative and Greg Brown, General Manager of TMC.

ISSUE:

The issue in this matter is whether claimant was discharged for misconduct or whether claimant voluntarily quit with good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds the following facts. Claimant last worked for employer on October 18, 2011. Claimant was discharged on October 18, 2011 by employer because he resigned effective November 4, 2011.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 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.

Iowa Code § 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

The claimant put in his resignation to be effective on November 4, 2011. He was dissatisfied with his working conditions and he had found other employment which was to begin on November 7, 2011. When he notified his employer, General Manager, Greg Brown, that he intended to put in his notice, Mr. Brown told him he had no more work for him. Claimant was effectively terminated at that time.

In this case, Iowa law is very clear. "Where the claimant gave the employer 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." Iowa Administrative Code 871 Section 24.25(38). This rule is precisely on point. The claimant is entitled to benefits from October 16, 2011 through the week ending November 5, 2011, which was claimant's proposed date of resignation.

DECISION:

The fact-finding decision dated November 9, 2011, reference 01, is affirmed. Claimant is eligible to receive unemployment insurance benefits from October 16, 2011 through the week ending November 5, 2011, provided claimant meets all other eligibility requirements.

Joseph L. Walsh
Administrative Law Judge

Decision Dated and Mailed

jlw/pjs