

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

FRANK J PERKINS
Claimant

APPEAL NO. 12A-UI-02068-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

L A LEASING INC
Employer

OC: 01/08/12
Claimant: Appellant (4-R)

Section 96.5-1 - Voluntary Quit
871 IAC 24.27 - Voluntary Quit of Part-Time Job

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated February 27, 2012, reference 01, that concluded the claimant voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on March 15, 2010. The parties were properly notified about the hearing. The claimant participated in the hearing. Colleen McGuinty participated in the hearing on behalf of the employer with a witness, Shelby Kingery. Official notice is taken of the Agency's records regarding the claimant's unemployment insurance claim, which show the employer paid wages totaling \$35 during the third quarter of 2011, which when added to the wages \$2,352.50 he was paid by from Hawkeye Paving was his high quarter of wages in his base period. If a party objects to taking official notice of these facts, the objection must be submitted in writing no later than seven days after the date of this decision.

ISSUE:

Did the claimant voluntarily quit part-time employment without good cause attributable to the employer?

FINDINGS OF FACT:

The employer is a staffing company that provides workers to client businesses on a temporary or indefinite basis. When the claimant was hired, he was given a statement to read and sign that he would be considered to have voluntarily quit employment if he did not contact the employer within three working days after the completion of a job assignment and request a new assignment.

The claimant worked a one-day assignment as a concrete laborer for the employer at Whitey Masonry on August 25, 2011. He worked 3.5 hours. After completing his work assignment, he contacted the account coordinator about getting his paycheck within a couple days of August 25, but he did not request a new assignment.

The claimant filed a new claim for unemployment insurance benefits with an effective date of January 8, 2012. The employer paid the claimant \$35.00 in wages during the third quarter of 2011, which when combined with the wages from his other employer was the claimant's highest quarter of earnings during his base period. The claimant's weekly benefit amount was determined to be \$108.00, based on the wages during the third quarter of 2011.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant voluntarily quit employment without good cause attributable to the employer, which is grounds for disqualification under Iowa Code § 96.5-1.

Iowa Code § 96.5-1-j provides that individuals employed by a temporary agency must contact their employer within three working days after the completion of a work assignment and seek a new assignment or they will be considered to have voluntarily quit employment without good cause attributable to the employer, provided that the employer has given them a statement to read and sign that advises them of these requirements. The claimant would be subject to disqualification under the law if the job was not part-time, because he did not contact the employer about another assignment.

871 IAC 24.27 provides that a claimant who voluntarily quits part-time employment without good cause and has not requalified for benefits, 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. Instead, the benefits payments will be made based on the wages from the other employers and the part-time employer's account will not be charged for benefits paid.

The claimant voluntarily quit employment without good cause attributable to the employer. The job, however, was part-time, and the claimant has sufficient wages from other employers to qualify to receive unemployment insurance benefits. Pursuant to the rule, the employer's account will not be subject to charge for benefits paid to the claimant. The matter of re-determining the claimant's weekly benefit amount and maximum benefit amount after excluding the wages from the employer is remanded to the Agency.

DECISION:

The unemployment insurance decision dated February 27, 2012, reference 01, is modified in favor of the claimant. He is qualified to receive unemployment insurance benefits, provided he is otherwise eligible. The employer's account will be exempt from charge for benefits paid to the claimant. The matter of redetermining the claimant's weekly benefit amount and maximum benefit amount after excluding the wages from the employer is remanded to the Agency.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/kjw