

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RYAN D NEWEL
Claimant

SUMMIT PUBLICATIONS INC
Employer

APPEAL NO: 12A-UI-11875-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 09/18/12
Appellant: Respondent (4)

Section 96.5-1 – Voluntary Quit/Other or Better Employment

STATEMENT OF THE CASE:

The employer appealed a department decision dated September 25, 2012, reference 02, that held the claimant was not dismissed from employment for misconduct on August 6, 2012, and benefits are allowed. A telephone hearing was held on October 29, 2012. The claimant participated. Misty Wenger, HR representative, participated for the employer. Employer Exhibit 1 was received as evidence.

ISSUE:

Whether the claimant voluntarily quit with good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge having heard the testimony of the witnesses, and having considered the evidence in the record, finds: The claimant worked for the employer as a full-time outside sales representative from January 5, 2012 to August 2. The claimant requested a leave of absence due to training for other employment that was granted by the employer. Claimant went to the other out-of-state employer for an employee training evaluation. He was paid for the week training. This job had better pay and scheduling.

Claimant received a notification from the out-of-state employer he did not receive a satisfactory evaluation so he was not hired on a permanent basis. He tried to return to work for the employer but was unsuccessful due to the expiration of the leave period.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5-1-a 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. But the individual shall not be disqualified if the department finds that:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The administrative law judge concludes the claimant voluntarily quit with good cause for better employment and is eligible for benefits. No employer's account is charged.

While it appears there was a misunderstanding of the leave period, the moving cause of claimant's unemployment was pursuit of an out-of-state better paying job that fell through. The claimant left to take a better paying job and he did not intend to return to work. He had no reason to believe he would be denied the job after the training period. This employment separation is not disqualifying and no employer's account is charged for benefits.

Claimant requested and was granted a leave of absence for a specified period with a return to work date. His decision to resign prior to the end of the leave period, is considered a voluntary quit without good cause attributable to the employer.

DECISION:

The department decision dated September 25, 2012, reference 02, is modified. The claimant voluntarily quit for better employment on August 2, 2012. Benefits are allowed, provided the claimant is otherwise eligible. No employer's account is charged.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/css