

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

ALEJANDRO E BARNUM-LUNA
Claimant

HEMMEN MOVING INC
Employer

APPEAL 15A-UI-13410-JCT
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 11/08/15
Claimant: Respondent (4)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.5(1)g – Voluntary Leaving/Requalification

STATEMENT OF THE CASE:

The employer filed an appeal from the December 3, 2015 (reference 01) unemployment insurance decision that allowed benefits. The parties were properly notified about the hearing. A telephone hearing was held on December 29, 2015. Although properly notified for the hearing, the claimant did not furnish a phone number for himself or representative to participate. The employer participated through Darren Hemmen, Owner. Employer's Exhibit One was admitted into evidence. The administrative law judge took official notice of the administrative record, including fact-finding documents.

ISSUE:

Has the claimant requalified for benefits since the separation from this employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed part time as a moving assistant and was separated from employment on August 24, 2015; when he resigned to return to college at Iowa State University. Continuing work was available and the claimant is currently eligible for rehire.

The administrative record reflects that since the separation from this employment, the claimant has worked in and been paid insured wages of at least ten times his weekly benefit amount.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment without good cause attributable to the employer but has since requalified for benefits.

Iowa Admin. Code r. 871-24.25(26) 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 § 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 § 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:

(26) The claimant left to go to school.

Iowa Code § 96.5-1-g 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:

g. The individual left work voluntarily without good cause attributable to the employer under circumstances which did or would disqualify the individual for benefits, except as provided in paragraph "a" of this subsection but, subsequent to the leaving, the individual worked in and was paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2).

The claimant's separation to return to school is disqualifying. However, the administrative law judge further concludes from information contained in the administrative record that the claimant has requalified for benefits since the separation from this employer. Accordingly, benefits are allowed and the account of this employer (account number 337473-000) shall not be charged.

DECISION:

The December 3, 2015 (reference 01) unemployment insurance decision is modified in favor of the appellant. The claimant quit without good cause attributable to the employer but has requalified for benefits since the separation. Benefits are allowed, provided the claimant is otherwise eligible. The account of this employer (account number 337473-000) shall not be charged.

Jennifer L. Coe
Administrative Law Judge

Decision Dated and Mailed

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