

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**HERBERT O SPELLER**  
Claimant

**ADESA DES MOINES LLC**  
Employer

**APPEAL NO. 15A-UI-01921-B2**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 01/25/15  
Claimant: Appellant (1)**

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Iowa Code § 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated February 11, 2015, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on May 27, 2015. Claimant participated personally. Employer participated by Heidi Melroy.

**ISSUE:**

The issue in this matter is whether claimant quit for good cause attributable to employer.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on December 6, 2014. Claimant enrolled in truck driving school with DMACC which would fill his days throughout December 2014 and January 2015. Claimant asked employer if he could take a two month leave of absence while he went to school. Employer researched the issue and determined that part-time employees cannot take extended leave of absences. This was explained to claimant.

Employer was willing to have claimant work over claimant's one week holiday break. Claimant agreed to work December 22, 23, and 24, 2014. Claimant did not show up for work on December 22, 2014. After claimant's shift had ended on December 22, claimant called work and explained that he would not be into work that day or the next two days as his mother had had surgery to amputate a toe and needed assistance and support. Claimant last contacted employer on January 2, 2015 when he wished people a Happy New Year by text. Claimant did not address his job in this text.

Claimant finished his schooling January 30, 2015. Since that date, claimant has been able and available to work at all times.

## 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 Admin. Code r. 871-24.22(2)(1)(2) provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

j. Leave of absence. A leave of absence negotiated with the consent of both parties, employer and employee, is deemed a period of voluntary unemployment for the employee-individual, and the individual is considered ineligible for benefits for the period.

(1) If at the end of a period or term of negotiated leave of absence the employer fails to reemploy the employee-individual, the individual is considered laid off and eligible for benefits.

(2) If the employee-individual fails to return at the end of the leave of absence and subsequently becomes unemployed the individual is considered as having voluntarily quit and therefore is ineligible for benefits.

Claimant asked employer if he could take a leave of absence to pursue education that would further his career desires. As claimant was a part-time worker, employer did not grant claimant a leave of absence. There was no agreement between the parties as to a leave of absence. Without being granted this leave, claimant went ahead with his schooling as it had been paid for. Claimant made this decision to better his life. This entailed quitting his employment with employer. Employer did tell claimant that he could reapply for his position online. This statement supports the fact that claimant did quit, but he quit on terms that would allow him to reapply. While his quitting was for good cause, it was not for good cause attributable to employer. As such claimant is not eligible for unemployment benefits.

**DECISION:**

The decision of the representative dated February 11, 2015, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

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Blair A. Bennett  
Administrative Law Judge

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Decision Dated and Mailed

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