

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JEROME R ZACHARY
Claimant

NCS PEARSON INC
Employer

APPEAL 15A-UI-07906-SC-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 06/14/15
Claimant: Appellant (2)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the July 6, 2015, (reference 01) unemployment insurance decision that denied benefits based upon the determination he voluntarily quit his employment before a lay-off when continuing work was available. The parties were properly notified about the hearing. A telephone hearing was held on July 31, 2015. Claimant Jerome Zachary participated on his own behalf. Employer NCS Pearson, Inc. participated through Human Resources Recruiter Troy Simmons.

ISSUE:

Did claimant voluntarily quit the employment with good cause attributable to employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed in a full-time, seasonal position as a Scanner beginning December 2, 2009, and his last day worked was June 12, 2015. At the time he was separated from his employment, he was working in a position that was scheduled to be laid off due to a lack of work on June 19, 2015.

On June 14, 2015, the claimant called his supervisor and told her that he was having car trouble so he would not be able to get to work. He continued to have car trouble and was unable to get to work. On June 16, 2015, the claimant contacted Human Resources Recruiter Troy Simmons and asked if he could begin his layoff early due to his car issues. Simmons told the claimant he could, provided he obtained approval from his supervisor. The claimant attempted to call his supervisor but was unable to reach her.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment with good cause attributable to the employer. Benefits are allowed.

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. 871-24.25(29) 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:

(29) The claimant left in anticipation of a layoff in the near future; however, work was still available at the time claimant left the employment.

Iowa Admin. Code r. 871-24.26(13) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(13) A claimant who, when told of a scheduled future layoff, leaves employment before the layoff date shall be deemed to be not available for work until the future separation date designated by the employer. After the employer-designated date, the separation shall be considered a layoff.

By the time claimant had quit, employer had already made the decision to layoff claimant due to a lack of work. Since the layoff was scheduled to begin on or about June 19, 2015, claimant would be entitled to benefits from that date forward. Because he left in advance of the announced layoff, benefits are denied through the week ending June 20, 2015. He is qualified to receive benefits, provided he is otherwise eligible, for any claim for benefits made on or after the week beginning June 21, 2015.

DECISION:

The July 6, 2015, reference 01, decision is reversed. The claimant voluntarily left the employment in advance of a scheduled layoff. Benefits are denied through June 20, 2015, and allowed effective June 21, 2015, provided the claimant is otherwise eligible. Inasmuch as no benefits were paid, no overpayment applies. The benefits withheld based upon this separation shall be paid to claimant.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/pjs