

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

STEVEN N HARRIS
Claimant

APPEAL NO. 07A-UI-04018-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

KLAUER DEVELOPMENT CORP
Employer

**OC: 11/26/06 R: 04
Claimant: Respondent (4)**

Section 96.5-1-a – Voluntary Quit for Other Employment

STATEMENT OF THE CASE:

Klauer Development Corporation (employer) appealed a representative's April 11, 2007 decision (reference 01) that concluded Steven N. Harris (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge even after the claimant notified the employer he would not be returning to work after the employer recalled him. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 3, 2007. The claimant participated in the hearing. Randy Klauer, the president, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant refuse an offer to return to work for reasons that qualify him to receive unemployment insurance benefits?

Did the claimant voluntarily quit his employment for reasons that qualify him to receive unemployment insurance benefits?

FINDINGS OF FACT:

The employer laid off the claimant in late November 2006. The claimant knew the employer planned to recall him when business picked up. The claimant established a claim for benefits during the week of November 26, 2006. On March 13, 2007, the employer contacted the claimant and asked him to return to work the following Monday, March 19, 2007.

On March 15, 2007, another employer offered the claimant a new job, which the claimant accepted. On March 16, 2007, the claimant informed the employer he would not be returning to work because he had accepted other employment. The claimant started his new job on March 19, 2007.

After the claimant accepted a new job, he also asked about any accrued vacation time he had. Most of the employer's employees do not use vacation time when they are laid off. Instead,

they save their vacation time and use it during the summer, or when the employer has work to do.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §§ 96.5-1, 2-a. Even though the claimant had been laid off since late November 2006, he knew the employer planned to call him back to work. The employer called the claimant back to work on March 13. The claimant initiated his employment separation as of March 18, 2007, when he accepted other employment, which he began on March 18, 2007. When a claimant quits employment because he has accepted other employment, he is not disqualified from receiving unemployment insurance benefits, and the employer's account will not be charged. Iowa Code § 96.5-1-a. As of March 18, 2007, the employer's account will not be charged for any subsequent benefits paid to the claimant.

Although the employer raised an issue of the claimant's vacation pay, this issue was addressed in a representative's April 20, 2007 decision (reference 02).

DECISION:

The representative's April 11, 2007 decision (reference 01) is modified in the employer's favor. The claimant voluntarily quit his employment after the employer recalled him back to work because he accepted other employment. The claimant's employment separation as of March 18, 2007, does not disqualify him from receiving unemployment if he would again become unemployed. As of March 18, 2007, the employer's account will not be charged. .

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw