

IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI

THOMAS P SACCO  
1515 – 44<sup>TH</sup> ST  
DES MOINES IA 50311-2416

TWO RIVERS MARKETING RESOURCE  
CORPORATION  
502 E LOCUST  
DES MOINES IA 50309

Appeal Number: 04A-UI-06065-A  
OC: 06-08-03 R: 02  
Claimant: Appellant (1)

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Thomas P. Sacco filed a timely appeal from an unemployment insurance decision dated May 21, 2004, reference 04, which disqualified him for benefits. After due notice was issued, a hearing was held in Des Moines, Iowa, on June 16, 2004. Mr. Sacco participated on his own behalf. Co-Owner Brian Jones participated for the employer, Two Rivers Marketing Resource Corporation. Employer's Exhibit 1 was admitted into evidence.

#### FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Thomas P. Sacco was employed as a copywriter by Two Rivers Marketing Resource Corporation from November 10, 2003 until he resigned April 6, 2004. He sent an e-mail to Co-Owners Tom Dunphy and Brian Jones, resigning because of the amount of work, the type of work and moving from a work station at Principal Financial Group to the employer's offices approximately six blocks away. Further work was available had he not resigned.

Mr. Sacco was concerned that he had too little work, not that he had too much work to do. The amount of work had not changed materially in the months that Mr. Sacco worked for the company. A highly conscientious individual, Mr. Sacco did not feel that he was earning his salary. The company was not concerned, however. Management recognized that several weeks or months may pass before a project generates significant billable hours.

While working on site at Principal Financial Group, Mr. Sacco had written primarily about retirement plans. Upon moving back to Two Rivers' office, he was going to work with Bobcat Industries. No one had complained that Mr. Sacco lacked sufficient knowledge of that industry to be an effective copywriter. Once again, the relatively low level of billable hours was anticipated because Mr. Sacco was a new individual working on a new project.

#### REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence in the record establishes that Mr. Sacco resigned with good cause attributable to the employer. It does not.

Iowa Code Section 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.

The claimant has the burden of proof. See Iowa Code Section 96.6-2. A rule found at 871 IAC 24.26(1) allows benefits to an individual who resigns because of a change in the conditions of employment. The rule requires that the change be substantial and can involve changes in working hours, shifts, compensation, location of employment, or a drastic modification in the type of work. Minor changes in an employee's duties do not constitute a substantial change in the conditions of employment.

The evidence establishes that Mr. Sacco would continue working as a copywriter. The primary change would be in the industry for which he wrote. The record does not establish that Mr. Sacco's career had been so focused on the financial services industry that using his talents as a writer for another industry would constitute a substantial, deleterious change. The record also does not establish that the change in location in the downtown Des Moines business district created a serious detriment to Mr. Sacco.

Two other rules also may apply. 871 IAC 24.25(21) denies benefits to an individual who resigns because of dissatisfaction with the work environment. 871 IAC 24.25(33) denies unemployment insurance benefits to an individual who resigns because the individual feels that

his or her job performance does not meet the employer's satisfaction, unless the employer has requested that the individual leave. The latter rule seems to come closest to the situation presented in this case. It is clear from the testimony that Mr. Sacco did not feel that he was making sufficient contribution to his employer's business although the employer had expressed no dissatisfaction with the quality or quantity of his work. While recognizing Mr. Sacco's frustration and his personal perception that he was not contributing sufficiently, this subjective reason establishes only good personal cause for the resignation not good cause attributable to Two Rivers. Benefits must be withheld.

DECISION:

The unemployment insurance decision dated May 21, 2004, reference 04, is affirmed. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

tjc/tjc