

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JEROME CULP**

Claimant

**APPEAL NO: 14A-UI-07928-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**KIMCO FACILITIES SERVICES CORP**

Employer

**OC: 06/15/14**

**Claimant: Appellant (4)**

Section 96.5-1 a – Voluntary Leaving – Other Employment

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the July 22, 2014, reference 04, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on August 25, 2014. The claimant participated in the hearing. Manuel Debeche, Manager, participated in the hearing on behalf of the employer.

**ISSUE:**

The issue is whether the claimant voluntarily left his employment to accept employment elsewhere.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a part-time janitor for Kimco Facilities Services from July 2012 to May 21, 2014. The employer had continued work available for the claimant but he voluntarily resigned by failing to call the employer or report for work May 19, 20 and 21, 2014. The claimant left employment with Kimco Facilities Services to accept other employment at Cedar Rapids Country Club and performed services for that employer.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment to accept employment elsewhere.

Iowa Code section 96.5(1)a 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:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding § 96.8, subsection 5.

Even though the separation was without good cause attributable to the employer and would, standing alone, disqualify the claimant from receiving benefits, the claimant did leave in order to accept other employment and did perform services for the subsequent employer. Accordingly, benefits are allowed and the account of Kimco Facilities Services Corporation shall not be charged.

**DECISION:**

The July 22, 2014, reference 04, decision is modified in favor of the appellant. The claimant voluntarily left his employment in order to accept other employment. Benefits are allowed provided the claimant is otherwise eligible. The account of this employer shall not be charged.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

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