

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GILBERT VARGAS

Claimant

APPEAL NO. 08A-UI-07883-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

RUST PUBLISHING NW IA LC

SPENCER DAILY REPORTER

Employer

**OC: 07/20/08 R: 01
Claimant: Respondent (4)**

Section 96.5-1 – Voluntary Leaving
871 IAC 24.27 – Voluntary Quit of Part-time Job

STATEMENT OF THE CASE:

Rust Publishing NW IA L.C. / Spencer Daily Reporter (employer) appealed a representative's August 28, 2008 decision (reference 01) that concluded Gilbert Vargas (claimant) was qualified to receive unemployment insurance benefits after a separation from employment. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 16, 2008. The claimant failed to respond to the hearing notice and provide a telephone number at which he could be reached for the hearing and did not participate in the hearing. Kari VanderWoude 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.

FINDINGS OF FACT:

The claimant started working for the employer on May 30, 2008. He worked part-time (approximately 20 hours per week) as an inserter in the employer's mailroom. He normally worked about five hours per day on Monday morning and Tuesday, Thursday, and Friday afternoons. His last day of work was July 11, 2008.

The claimant was a no-call/no-show for his scheduled shifts on July 14, July 15, and July 17. On July 18 he called the employer and inquired whether he still had a job. He was informed that under the employer's three-day no-call/no-show job abandonment policy, of which he had been put on notice, he was deemed to have voluntarily left his position and it was no longer available for him to return. The claimant did not explain the reason for his absence and failure to notify the employer.

The claimant established an unemployment insurance benefit year effective July 20, 2008. The claimant does have other base period wages from other employers. His base period was established as being from the second quarter of 2007 through the first quarter of 2008. The claimant's highest quarter of earnings during his base period was the first quarter of 2008, which did not include any wages from the employer. His weekly benefit amount was determined to be \$78.00, based on his wages in the first quarter of 2008.

REASONING AND CONCLUSIONS OF LAW:

If the claimant voluntarily quit his employment, he is normally not eligible for unemployment insurance benefits unless it was for good cause attributable to the employer. Iowa Code section 96.5-1.

871 IAC 24.25 provides that, 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. However, an intent to quit can be inferred in certain circumstances. For example, a three-day no-call/no-show in violation of company rule is considered to be a voluntary quit. 871 IAC 24.25(4). The claimant did exhibit the intent to quit and did act to carry it out. The claimant would be disqualified for unemployment insurance benefits unless he voluntarily quit for good cause.

The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify him. Iowa Code section 96.6-2. The claimant has not satisfied his burden.

871 IAC 24.27 provides:

Voluntary quit of part-time employment and requalification. An individual who voluntarily quits without good cause part-time employment and has not requalified for benefits following the voluntary quit of part-time employment, yet is otherwise monetarily eligible for benefits based on wages paid by the regular or other base period employers, shall not be disqualified for voluntarily quitting the part-time employment. The individual and the part-time employer which was voluntarily quit shall be notified on the Form 65-5323 or 60-0186, Unemployment Insurance Decision, that benefit payments shall not be made which are based on the wages paid by the part-time employer and benefit charges shall not be assessed against the part-time employer's account; however, once the individual has met the requalification requirements following the voluntary quit without good cause of the part-time employer, the wages paid in the part-time employment shall be available for benefit payment purposes. For benefit charging purposes and as determined by the applicable requalification requirements, the wages paid by the part-time employer shall be transferred to the balancing account.

The claimant voluntarily quit employment without good cause attributable to the employer. The job, however, was part time, and the claimant has sufficient wages from other employers to qualify to receive unemployment insurance benefits. The employer's account will not be subject to charge for benefits paid to the claimant.

DECISION:

The representative's August 28, 2008 decision (reference 01) is modified in favor of the employer. The claimant is not disqualified and the employer's account is not subject to charge

because the claimant voluntarily quit part-time employment without good cause attributable to the employer.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

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