

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**JACOB M KROENECKE**  
Claimant

**DENVER CONSTRUCTION INC**  
Employer

**APPEAL 14A-UI-10068-DL**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 04/06/14  
Claimant: Appellant (4)**

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Iowa Code § 96.5(1)a – Voluntary Quitting – Other Employment

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the September 19, 2014, (reference 02) unemployment insurance decision that denied benefits because of not being able to or available for work from April 6, 2014, through July 5, 2014. After due notice was issued, a hearing was held on October 15, 2015, in Waterloo, Iowa. Claimant participated with his father Martin Kroenecke. Employer participated through office manager Missy Heineman and was represented by Brad Strouse, Attorney at Law. Employer's Exhibits 1 through 8 were received. Claimant's Exhibits A and B were received.

**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: Claimant was most recently employed with Denver Construction as a full-time local truck driver from April 2013, through August 18, 2014. He was off work between March 31 and July 5, 2014, because of a dispute over requirements for medical testing for his commercial driver's license (CDL) physical and certification. [The claimant's ability to and availability for work from the claim date of April 6, 2014, through his return to work on July 5, 2014, pursuant to Iowa Code § 96.4(3) is addressed by the ALJ decision for appeal 14A-UI-10069-DL, which will follow this decision separately.] His usual work hours were 7 a.m. to 5 p.m. He had temporary custody of his son so he could not work the week rotation at 6 a.m. at John Deere the week of August 18, 2014, because he did not have child care available that early in the morning. Continued work was available. The claimant left employment with Denver Construction to accept other employment at Meyers Wholesale Turf LLC. He has not claimed benefits since the week ending July 5, 2014.

**REASONING AND CONCLUSIONS OF LAW:**

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

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(17) and (21) provide:

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:

(17) The claimant left because of lack of child care.

(21) The claimant left because of dissatisfaction with the work environment.

Claimant's decision to quit because he did not have child care for a one-week alteration in the work schedule and because he did not like the environment after he returned from a leave are not good-cause reasons attributable to the employer for quitting the employment.

Iowa Code § 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.

Iowa Admin. Code r. 871-24.28(5) provides:

Voluntary quit requalifications and previously adjudicated voluntary quit issues.

(5) The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment. The employment does not have to be covered employment and does not include self-employment.

Iowa Admin. Code r. 871-23.43(5) provides:

(5) Sole purpose. The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment. No charge shall accrue to the account of the former voluntarily quit employer.

However, 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, provided he is otherwise eligible, and the account of the employer shall not be charged effective August 17, 2014.

**DECISION:**

The September 19, 2014, (reference 02) unemployment insurance decision is modified in favor of the appellant. The claimant voluntarily left the employment in order to accept other employment. Benefits are allowed, provided the claimant is otherwise eligible. The account of the employer (account number 53836) shall not be charged for any benefits claimed or paid effective August 17, 2014.

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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

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