

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MICHAEL J KRAUSE
Claimant

APPEAL NO. 11A-UI-14276-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MID IOWA SUBWAY INC
Employer

OC: 10/23/11
Claimant: Respondent (4)

Section 96.5-1 – Voluntary Quit
Section 96.5-1-a – Voluntary Quit/New Job

STATEMENT OF THE CASE:

Mid Iowa Subway, Inc. filed a timely appeal from a representative's decision dated October 28, 2011, reference 02, that held the claimant eligible to receive unemployment insurance benefits, finding he was laid off work on May 3, 2011, due to lack of work. After due notice was issued, a telephone hearing was held on December 1, 2011. The claimant participated personally. The employer participated by Ms. Jane Collison, office manager.

ISSUE:

At issue is whether the claimant left employment with good cause attributable to the employer and whether the employer is subject to charging.

FINDINGS OF FACT:

Having considered the evidence in the record, the administrative law judge finds: Michael Krause was employed by Mid Iowa Subway, Inc. from February 2010 until May 3, 2011, when he voluntarily left employment to accept other employment. Mr. Krause was employed as a part-time sandwich maker and was paid by the hour.

In mid-April 2011, Mr. Krause gave his two-week notice of intention to quit employment to accept previously secured permanent, full-time employment with the JBS Company. The parties agreed that the claimant's last day of work would be May 3, 2011. Mr. Krause completed the notice period and left employment on May 3, 2011, to commence the new employment. The claimant's leaving coincided with the sale of the facility by Mid Iowa Subway, Inc. to new owners. The claimant's leaving was not caused by the sale, however.

Ms. Krause began performing services for the JBS Company and received pay for his services.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left employment without good cause attributable to Mid Iowa Subway, Inc.

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.

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 section 96.8, subsection 5.

The evidence in the record establishes that the claimant's separation from employment with Mid Iowa Subway, Inc. on May 3, 2011, was initiated by the claimant. Mr. Krause had submitted a two-week notice of intention to quit employment to accept other employment with a different company and the parties had agreed in advance that his last day of work would be May 3, 2011. The claimant completed the notice period and left May 3, 2011, for the sole purpose of accepting previously secured permanent, full-time employment that he considered to be a betterment of work or working conditions. The claimant did perform services for JBS Company.

Although the claimant's date of leaving coincided with the date of sale of this employer's facility to a new owner, the claimant's leaving of employment was not caused by the sale but caused solely by the claimant's decision to leave work to accept other employment with JBS Company. The claimant's leaving was thus not attributable to this employer. Benefits relating to wage credits earned with Mid Iowa Subway, Inc. shall be charged to the Unemployment Compensation Fund. Benefits are allowed to the claimant, provided he meets all other eligibility requirements of Iowa law.

DECISION:

The representative's decision dated October 28, 2011, reference 02, is modified. The claimant voluntarily quit employment without good cause attributable to the employer and is not subject to a benefit disqualification, because he left employment for the sole purpose of accepting other or better employment, which he did accept and perform services for. Benefits related to wage credits earned from Mid Iowa Subway, Inc. shall be charged to the Unemployment Compensation Fund.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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