

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DERRELL E ASSANTE ADDAE
Claimant

APPEAL NO. 11A-UI-00021-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

RUFFALOCODY LLC
Employer

OC: 10-24-10
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the December 23, 2010, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on March 8, 2011. The claimant did participate. The employer did participate through Kelly Henrich, Human Resources Generalist.

ISSUE:

Did the claimant voluntarily quit his employment without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a lead caller part time beginning December 9, 2008 through April 29, 2010 when he voluntarily quit. The claimant was involved in an altercation in a bar on off work time where he was arrested. He was unhappy about the situation and decided that he needed to move out of state. He planned to move to Illinois to live with his brother. When the situation did not work out financially he determined to remain in Cedar Rapids. Continued work was available for the claimant if he had not quit.

Neither the claimant nor any other employee is guaranteed that they will be promoted. Simply interviewing for an open position in the company is not a guarantee that an employee will be offered a job. The claimant contends that he was offered and accepted a promotion by Scott, his supervisor in September 2009. The claimant never received an offer letter from the company and his file in human resources does not reflect that he was ever offered a promotion. He never was promoted and he claimant continued to work at his same position until April 29 when he determined to move out of state after the altercation at the bar. The claimant told the employer and the fact finder that he was leaving the position to move out of state, not because he had not been promoted. The claimant continued to work in his position with the company for seven months after he was supposed to have been promoted.

REASONING AND CONCLUSIONS OF LAW:

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

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.

871 IAC 24.25(2) provides:

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:

(2) The claimant moved to a different locality.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980).

The administrative law judge is not persuaded that the claimant was ever offered a promotion. In order to do so the employer would have sent him a formal written job offer including his job description. The claimant continued to work in the same position for some seven months after he should have been promoted and never contacted human resources to determine why he was not promoted. The claimant was never guaranteed that he would be promoted or that he would be hired for any other open positions in the company. The claimant decided to voluntarily quit his job in order to move out of state not because of any failure of the employer to promote him but because of the altercation in the bar. While claimant's decision to quit may have been based upon good personal reasons it was not a good-cause reason attributable to the employer for leaving the employment. Benefits must be denied.

DECISION:

The December 23, 2010 (reference 01) decision is affirmed. The claimant voluntarily left his employment without good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/css