

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TERRY G PAULL
Claimant

APPEAL NO: 10A-UI-03612-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CAT SCALE COMPANY
Employer

OC: 01/24/10
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Terry G. Paull (claimant) appealed a representative's February 25, 2010 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits after a separation from employment from Cat Scale Company (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 21, 2010. The claimant participated in the hearing. Mike Cuperman, attorney at law, appeared on the employer's behalf for a portion of the hearing; Tracy Banta, appeared on behalf of the employer during the remainder of the hearing and presented testimony on behalf of the employer. 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.

ISSUE:

Did the claimant voluntarily quit for a good cause attributable to the employer?

FINDINGS OF FACT:

The claimant started working for the employer on March 19, 2008. He worked full time as a construction laborer working on constructing and repairing scales at the employer's various work sites. His last day actually on duty was December 22, 2009, the day he completed traveling from his final work site in Mississippi to his home in Independence, Missouri. When the claimant did not act to move to Iowa or report for a crew meeting on January 4, 2010, the employer concluded he had quit effective the end of the last pay period during which he had worked, which was the pay period ending December 25, 2009.

When the claimant was hired he was informed that one of the conditions of the job was that he would eventually be required to relocate to be near the employer's Iowa location so that he could readily be dispatched from that site to travel as needed with the work crew. The claimant had agreed to this condition of employment. The implementation of this requirement was somewhat delayed from the employer's initial belief that the initial project would be completed in about a year and half. However, the completion of the work in Mississippi was the completion of that project. In early December the employer reminded the claimant and the other employee

who had been hired from the same area in Missouri at about the same time that it was time to make arrangements to move to Iowa near the employer's location.

The claimant was informed of the planned staff meeting at the Iowa location on January 4, 2010. However, he expressed reservations about proceeding with the relocation. The employer was not requiring that the claimant complete relocation by January 4, only that he begin taking action in that regard. The other employee who had been hired from Missouri at about the same time as the claimant did take action to begin relocation, although he did not finalize relocation until about February. The claimant's reason for not pursuing relocation were that his father in Missouri was ill with cancer and that he was on a court supervised probation status that would need to be transferred to Iowa. However, the claimant was not providing direct care for his father, and under his probation the claimant was granted a travel permit that allowed him to leave Missouri to work outside of the state for up to six months. His travel permit at the time did not expire until April 2010. It would have taken approximately six to eight weeks for his Missouri court probation to be transferred to the Iowa court system. The claimant could have continued working for the employer from its Iowa location under his travel permit until the permanent transfer was completed, but he chose not to pursue this. Rather, he determined not to take actions to continue his employment with the employer at that time.

REASONING AND CONCLUSIONS OF LAW:

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

Rule 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. A voluntary leaving of employment requires an intention to terminate the employment relationship and an action to carry out that intent. Bartelt v. Employment Appeal Board, 494 N.W.2d 684 (Iowa 1993); Wills v. Employment Appeal Board, 447 N.W.2d 137, 138 (Iowa 1989). The claimant did express or exhibit the intent to cease working for the employer 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 § 96.6-2. Quitting because of a requirement to relocate is not good cause attributable to the employer for quitting where the condition of relocation had been one of the terms agreed to by the claimant when he was hired. 871 IAC 24.25(32). The claimant has not satisfied his burden. Benefits are denied.

DECISION:

The representative's February 25, 2010 decision (reference 01) is affirmed. The claimant voluntarily left his employment without good cause attributable to the employer. As of December 25, 2009, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs