

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TIMOTHY J TOVAR
Claimant

APPEAL NO. 10A-UI-15213-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CLARKE COMMUNITY SCHOOL DISTRICT
Employer

OC: 10/03/10
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Timothy J. Tovar filed a timely appeal from an unemployment insurance decision dated October 29, 2010, reference 01, that disqualified him for benefits. After due notice was issued, a telephone hearing was held December 15, 2010, with Mr. Tovar participating. Business Manager Ruth White participated for the employer, Clarke Community School District. Claimant Exhibit D-1 was admitted into evidence. This matter is considered on a consolidated record with 10A-UI-15214-AT.

ISSUE:

Did the claimant leave work with good cause attributable to the employer?

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Timothy J. Tovar was employed as technology director of the Clarke Community School District from June 28, 2009, until he resigned October 1, 2010. Clarke Community School District has approximately 1,500 to 1,600 students. It consists of an elementary school, a high school, and building where a pre-school is conducted. When Mr. Tovar was hired, the district had between 500 and 525 individual computers with other technology equipment such as file servers and the like. By the time Mr. Tovar's employment ended, the number of computers had grown approximately 50 percent. When Mr. Tovar was hired, he served as a one-person technology department. In September of 2010, the school district advertised in the *Des Moines Register* for a person to assist Mr. Tovar. There being no response, the position was then posted internally in mid-September. By the time of Mr. Tovar's resignation, an assistant, one of the science teachers in the school district, had been hired.

Mr. Tovar was initially hired to work during regular school hours. At his request, his hours were changed so that he could work in the late afternoon and evenings in order to be free from distractions from faculty, staff, and students.

Mr. Tovar found the job stressful. In the spring of 2010, he began working with a therapist and a psychiatrist. The therapist had been recommended to him by Ned Cox, the superintendent of schools. On another occasion, Mr. Cox offered to let Mr. Tovar stay at his, Mr. Cox's, home during a period of marital strife.

Mr. Tovar submitted a letter of resignation to be effective immediately on October 1, 2010. He felt that the work was too stressful, that the school district did not fully appreciate his services, and did not understand technology issues as well as it should. In his letter of resignation, he also expressed reservations about the quality and quantity of work being performed by his assistant. The district had not requested Mr. Tovar's resignation. Further work was available had he not resigned. He had been issued no warnings concerning the caliber or quantity of his work.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence establishes that the claimant left work with good cause attributable to the employer. It does not.

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.

The claimant has the burden of proof. See Iowa Code section 96.6-2. An individual may receive unemployment insurance benefits if the individual has resigned because of intolerable or detrimental working conditions. See 871 IAC 24.26(4). On the other hand, an individual is denied unemployment insurance benefits if the individual has left work because of dissatisfaction with the work environment, because of a conflict with a supervisor, because of an inability to work with coworkers, or because the individual felt that his or her work did not meet the employer's expectations. See 871 IAC 24.25(21), (22), (6), and (33), respectively.

There is no doubt from the evidence in this record that Mr. Tovar had a demanding job. However, it is also clear from the record that the employer took several steps to accommodate Mr. Tovar in the performance of his job. The employer allowed him to work unusual hours and hired an assistant. The record does not show that the employer made unreasonable demands on Mr. Tovar, only that Mr. Tovar was overwhelmed by the position. While the record establishes good personal cause for leaving the job, it does not establish good cause attributable to the employer. Therefore, benefits must be withheld.

DECISION:

The unemployment insurance decision dated October 29, 2010, reference 01, is affirmed. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw