

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CLINT M JOHNSON
Claimant

TRI CITY ELECTRIC CO OF IOWA
Employer

APPEAL 15A-UI-05773-EC-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 01/11/15
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quit
Iowa Admin. Code r. 871-24.25(23) – Voluntary Quit Due to Family Responsibilities
Iowa Admin. Code r. 871-24.25(37) – Resignation Accepted

STATEMENT OF THE CASE:

The claimant/appellant, Clint Johnson, filed an appeal from the May 7, 2015, (reference 01) unemployment insurance decision that denied benefits based upon a voluntary quit. The parties were properly notified about the hearing. A telephone hearing was held on June 16, 2015. The claimant participated. The employer, Tri City Electric Co Inc., did not participate.

ISSUE:

Was the separation from employment a voluntary quit with or without good cause?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant, a union electrician, was employed full time as a journeyman wireman working on the Microsoft project in West Des Moines, Iowa, from January 27, 2015, until he gave his two-week notice on April 3, 2015, and voluntarily left this employment on April 18, 2015.

The claimant lives in Illinois. He was hired through the union hall for this project. At the time he gave his notice, he had been working on the road for eight months, maintaining two households, which caused a personal and financial hardship for his family, especially his four-year-old son.

The claimant told his foreman and the general foreman that he was quitting because the job in West Des Moines, Iowa was a personal and financial hardship for him and his family. His employer accepted his resignation. Work was still available for the claimant at this project if he had not voluntarily left this employment.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was 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.

Iowa Admin. Code r. 871-24.25(23) and (37) 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:

(23) The claimant left voluntarily due to family responsibilities or serious family needs.

(37) The claimant will be considered to have left employment voluntarily when such claimant gave the employer notice of an intention to resign and the employer accepted such resignation. This rule shall also apply to the claimant who was employed by an educational institution who has declined or refused to accept a new contract or reasonable assurance of work for a successive academic term or year and the offer of work was within the purview of the individual's training and experience.

The claimant has the burden of proving that his voluntarily leaving his employment 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).

This claimant clearly communicated his intention to terminate the employment relationship, and carried out that intention. His employer accepted his resignation. He gave a two-week notice and continued to work for those two weeks.

Although the claimant's decision to leave this employment may have been based upon good personal reasons, due to family responsibilities and serious family needs, it was not for a good-cause reason attributable to the employer according to Iowa law. Benefits must be denied.

DECISION:

The May 7, 2015, (reference 01) unemployment insurance decision is affirmed. Claimant voluntarily left the 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.

Emily Gould Chafa
Administrative Law Judge

Decision Dated and Mailed

ec/css