

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CHRIS P HJELMGREN
Claimant

RAILCREW XPRESS LLC
Employer

APPEAL 19A-UI-02847-H2T
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 03/10/19
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the April 1, 2019, (reference 01) decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on April 24, 2019. Claimant participated. Employer did not participate. Official notice was taken of agency records

ISSUE:

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

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant worked full time as a driver beginning in September 2017 through February 5, 2019, when he voluntarily quit the job.

The claimant had been previously written up for an accident, refusing to take trips and for using foul language when speaking to a supervisor. On February 5, the claimant was participating in a conference call with area supervisor Jessica, and his supervisor Beth. The purpose of the call was to give the claimant a disciplinary action for using foul language. Claimant had used foul language when speaking to Jessica earlier and had hung up on her. Claimant disagreed with the employer's policy about refusing trips during what he thought was unsafe weather conditions. The claimant did not agree with any write up he had been given and thought that he should not be written up for refusing trips when he deemed the weather too bad to drive in. On February 5, the claimant was not being written up for refusing a trip, but rather for how he spoke to a supervisor. Claimant disagreed with the write up and told the employer, "[Y]ou can take this job and shove it up your ass and Jessica needs to quit being such a bitch. I quit." Claimant quit because he was being reprimanded. Claimant was not going to be discharged, just written up for the way he spoke to the supervisor.

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 section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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(21) 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 section 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 section 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:

(21) The claimant left because of dissatisfaction with the work environment.

Iowa Admin. Code r. 871-24.25(28) 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 section 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 section 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:

(28) The claimant left after being reprimanded.

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).

Claimant quit not because he was required to work in an unsafe environment, but because he was being written up for using foul language in speaking to a supervisor. The claimant does not have to agree with a write up in order for an employer to impose discipline. Claimant's decision to quit due to the reprimand is not good-cause reason attributable to the employer for quitting the employment. Benefits are denied.

DECISION:

The April 1, 2019, (reference 01) decision is affirmed. The claimant voluntarily quit employment without good cause attributable to the employer. Benefits are denied 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/rvs