

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RANDY A PEYTON

Claimant

APPEAL NO. 13A-UI-07016-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

JIM STONE

CUSTOM CABINETS & MILLWORK INC

Employer

OC: 05/05/13

Claimant: Appellant (1)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed a timely appeal from a representative's decision dated June 7, 2013, reference 01, which denied unemployment insurance benefits finding that he voluntarily quit work under disqualifying conditions. After due notice was provided, a telephone hearing was held on July 15, 2013. The claimant participated. The employer participated by Mr. James Stone, Company President and Co-Owner.

ISSUE:

At issue is whether the claimant left employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having considered the evidence in the record, the administrative law judge finds: Randy Peyton was employed by the captioned custom cabinet millwork company from June 13, 2012 until April 16, 2013 when he voluntarily quit his work. Mr. Peyton was employed as a full-time installer and was paid by the hour. His immediate supervisors were Jim Stone and Don DeCasper.

Mr. Peyton left his employment with Custom Cabinets & Millwork, Inc. on Tuesday, April 16, 2013 in order to perform services for his son who has his own construction company. Mr. Peyton had not been assigned to any installation work on Monday, April 15 or Tuesday, April 16, however, work was available to the claimant at the employer's facility and the claimant had not been sent home due to lack of work by the company. Approximately two weeks before the company had asked employees to hold their paychecks for one to two days until a payment for a large job had been received. The company employees were allowed to negotiate their paychecks the next day. There were no issues regarding pay at the time of Mr. Peyton's leaving.

Mr. Peyton did not return to work the remainder of the week beginning April 15, 2013 and when he did not return the following week he was contacted by the company owner. Mr. Stone met with Mr. Peyton personally and emphasized to the claimant that there was continuing

employment available to him, however, Mr. Peyton did not return to available work with Jim Stone Custom Cabinets & Millwork, Inc.

REASONING AND CONCLUSIONS OF LAW:

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.

871 IAC 24.25(3) 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:

(3) The claimant left to seek other employment but did not secure employment.

The question before the administrative law judge is whether Mr. Peyton left employment with good cause attributable to the employer. He did not.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6(2).

In this matter the claimant chose to leave ongoing employment with Jim Stone Custom Cabinets & Millwork, Inc. although ongoing work was available to him on the day that he left and continued to be available to the claimant through the following week. The company owner had verified to Mr. Peyton that work was available to him although the employer was willing to grant the claimant some time off work if the claimant requested time off and kept the employer apprised of his status while gone.

At the time of the claimant's leaving there were no issues regarding the claimant's pay and the claimant had not been sent home due to lack of work by the employer but had requested to leave work to assist his son in the son's construction business. The employer assumed that Mr. Peyton would be return to work, however, the claimant chose not to do so.

While the claimant's reasons for leaving may have been good from his personal viewpoint, they were not good-cause reasons attributable to the employer. Therefore, unemployment insurance benefits are withheld.

DECISION:

The representative's decision dated June 7, 2013, reference 01, is affirmed. The claimant left employment without good cause attributable to the employer. Unemployment insurance

benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount and is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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