

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JAIME CONTRERAS
Claimant

APPEAL NO. 14A-UI-00595-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

EXEL INC
Employer

OC: 12/08/13
Claimant: Appellant (1)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Jaime Contreras (claimant) appealed a representative's January 7, 2014, decision (reference 01) that concluded he was not eligible to receive unemployment insurance benefits because he voluntarily quit work with Exel (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for February 10, 2014. The claimant participated personally. The employer participated by Jim Lydic, Operations Manager.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on November 30, 2013, as a full-time forklift operator. The claimant applied for Family Medical Leave (FMLA) in advance of the birth of his child on August 23, 2014. The leave was granted so long as the claimant provided the child's birth certificate shortly after birth. The claimant understood that if he did not provide the birth certificate by a certain date, FMLA would be denied.

The baby was born on August 23, 2013. The claimant left for California within two weeks and did not supply the employer with the birth certificate. The claimant did not return to work. The employer sent a letter to the claimant saying he had to provide the birth certificate or return to work. The claimant did neither. The employer last heard from the claimant around September 19, 2013. The claimant returned to Iowa on or about December 3, 2013. He was surprised to find a letter from the employer indicating they considered him to have quit work. Continued work was available had the claimant not resigned.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant voluntarily quit work without good cause attributable to the employer.

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(20) 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:

(20) The claimant left for compelling personal reasons; however, the period of absence exceeded ten working days.

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). The claimant's intention to voluntarily leave work was evidenced by his actions. He was absent from work for personal reasons for more than ten working days. When an employee is absent from work for more than ten working days for compelling personal reasons, his leaving is without good cause attributable to the employer. The claimant left work for more than ten working days for compelling personal reasons. His leaving was without good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

DECISION:

The representative's January 7, 2014, decision (reference 01) is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount, provided the claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/pjs