

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

RANDAL W JAMIESON
Claimant

JOHN DEERE SHARED SERVICES INC
Employer

APPEAL 15A-UI-01333-JCT
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 12/28/14
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the January 23, 2015 (reference 01) unemployment insurance decision that denied benefits based upon the claimant's separation. The parties were properly notified about the hearing. A telephone hearing was held on February 26, 2015. The claimant participated. The employer participated through Elizabeth DeWinter. Claimant's Exhibit One was admitted.

ISSUE:

Did claimant voluntarily quit the employment with good cause attributable to employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed full time as a manufacturing engineer and was separated from employment on December 11, 2014 when he resigned.

On December 11, 2014 the claimant was given a "needs improvement" on his annual review with regard to his people and business skills. The claimant was presented with two options: (1) he could continue performing work but would be put on a formal performance improvement plan for the next 90 days and if improvement did not occur he would be fired without severance or (2) he could resign and accept two months of salary. Continuing work was available, in the same position and wages but he would have been subject to a performance improvement plan as a result of his annual review rating.

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(28) 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 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.

(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 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). In this case, continuing work was available to the claimant. He would have been issued formal discipline for his annual review rating but permitted to continue working in the same position, at the same wages, had he not resigned. The claimant's choice to accept the payment over remaining employed may have been personally compelling but it was not for a good-cause reason attributable to the employer according to Iowa law. Benefits are denied.

DECISION:

The January 23, 2015 (reference 01) unemployment insurance decision is affirmed. The 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.

Jennifer L. Coe
Administrative Law Judge

Decision Dated and Mailed

jlc/can