

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CURTIS ANDERSON
Claimant

NEHRING CONSTRUCTION INC
Employer

APPEAL 21A-UI-07308-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 01/10/21
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

On March 11, 2021, Chris Anderson (claimant) filed an appeal from the March 8, 2021, reference 01, unemployment insurance decision that denied benefits based upon the determination he voluntarily quit work with Nehring Construction, Inc. (employer) by missing work without notification for three consecutive days. The parties were properly notified about the hearing held by telephone on May 20, 2021. The claimant participated personally. The employer did not answer when called at the number provided and did not participate. The claimant's Exhibits A and B were admitted into the record.

ISSUE:

Did the claimant voluntarily quit employment with good cause attributable to the 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 General Laborer/Concrete Finisher beginning in August 2020, and his last day worked was November 23. Juan, the lead worker, would notify the claimant when he was working and where each day or the evening before via text message.

There was no work due to weather on November 24 and Phil, the claimant's supervisor, had approved the claimant to be off on November 27. On November 30, the claimant missed a call from Juan at 12:30 p.m. and sent him a text message at 12:56 p.m. to find out if there was work that day. Juan did not respond to the claimant's text message. The following day he sent a text message to Juan, who did not reply.

Juan did not have the authority to hire and fire employees. The claimant did not contact Phil or any other member of management to see if he still had a job. The claimant assumed he had been fired and/or laid off for the season.

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. Benefits are denied.

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 provides, in relevant part:

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:

...

(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

...

(29) The claimant left in anticipation of a layoff in the near future; however, work was still available at the time claimant left the employment.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973). Generally, when an individual mistakenly believes they are discharged from employment, but was not told so by the employer, and they discontinue reporting for work, the separation is considered a quit without good cause attributable to the employer.

In this case, the employer did not tell the claimant he was fired. The claimant did not seek to preserve his job by speaking with a member of management to see if he was still employed or make himself available for work. Therefore, the claimant abandoned his job without good cause attributable to the employer. Benefits are denied.

DECISION:

The March 8, 2021, 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.



Stephanie R. Callahan
Administrative Law Judge

May 27, 2021
Decision Dated and Mailed

src/ol

NOTE TO CLAIMANT: This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision, you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits, but who are unemployed or continue to be unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>. If this decision becomes final or if you are not eligible for PUA, you may have an overpayment of benefits.

ATTENTION: On May 11, 2021, Governor Reynolds announced that Iowa will end its participation in federal pandemic-related unemployment benefit programs effective June 12, 2021. The last payable week for PUA in Iowa will be the week ending June 12, 2021. Additional information can be found in the press release at <https://www.iowaworkforcedevelopment.gov/iowa-end-participation-federal-unemployment-benefit-programs-citing-strong-labor-market-and>