

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DERICK T CARLSON**  
Claimant

**APPEAL NO. 17A-UI-00553-S1-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**RAYMOND F SMITH CONSTRUCTION**  
Employer

**OC: 01/03/16**  
**Claimant: Appellant (1)**

Section 96.5-1 - Voluntary Quit

**STATEMENT OF THE CASE:**

Derrick Carlson (claimant) appealed a representative's January 9, 2017, decision (reference 01) that concluded he was not eligible to receive unemployment insurance benefits because he voluntarily quit work with Raymond F. Smith Construction (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for February 7, 2017. The claimant participated personally. The employer participated by Raymond Smith, Owner.

**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 March 4, 2008, as a full-time foreman. The employer usually laid off the claimant every year. The claimant worked through November 23, 2016, but his hours were unreliable. He was tardy for work and sometimes did not appear. The employer had work for the claimant after November 23, 2016, but the claimant did not appear for work.

**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 § 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.

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 the claimant's actions. The claimant stopped appearing for work and reporting his absence. There was no evidence presented at the hearing of good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

The claimant's and the employer's testimony is inconsistent. The administrative law judge finds the employer's testimony to be more credible because the employer kept work records of the claimant's hours. In addition, the owner was at the job site and did not see the claimant.

**DECISION:**

The representative's January 9, 2017, 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.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/rvs