

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MARTIN L SENNETT**  
Claimant

**APPEAL NO. 14A-UI-00206-VST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**API INC**  
Employer

**OC: 02/24/13**  
**Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

The claimant filed an appeal from a representative's decision dated December 31, 2013, reference 01, which held that the claimant was ineligible for unemployment insurance benefits. After due notice, a hearing was held on January 30, 2014, by telephone conference call. The claimant participated personally. The employer failed to respond to the hearing notice and did not participate. The record consists of the testimony of Martin Sennett.

**ISSUE:**

Whether the claimant voluntarily left for good cause attributable to the employer.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The claimant is a sheet metal worker and he was hired out of the union hall for Local 91 of the sheet metal workers for a project in Ottumwa, Iowa. The employer had contracted to do the sheet metal work. The claimant started working on September 9, 2013. His last day of work was December 9, 2013. The claimant voluntarily quit his job on December 9, 2013.

The claimant had multiple reasons for quitting his job. He was getting less than forty hours per week and no overtime. The claimant had to commute from Davenport, Iowa, to Ottumwa, and had to stay overnight in Ottumwa during the week. The claimant did not make enough money to pay for his expenses at home and his expenses while staying in Ottumwa. The weather was also getting cold and the claimant's feet were "almost frozen solid." He was working 200 feet in the air on a swinging stage and he did not feel that was safe.

## 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(21) 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:

(21) The claimant left because of dissatisfaction with the work environment.

871 IAC 24.25(30) 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:

(30) The claimant left due to the commuting distance to the job; however, the claimant was aware of the distance when hired.

A quit is a separation initiated by the employee. 871 IAC 24.1(113)(b). In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

The claimant is not eligible for unemployment insurance benefits. Although the claimant had multiple reasons for quitting his job, none of these reasons are for good cause attributable to the employer. The claimant initially emphasized that he quit because of financial reasons. He admitted that he did not have a guarantee of a certain number of hours and he knew when he accepted the job that he would have commuting expenses to and from Ottumwa. The claimant cited one instance of getting "frozen feet" when he was working on a day where the temperature

was two degrees. The claimant is a construction worker and working out in the elements is part of the job. As for the "swinging stage", the claimant provided no proof that he or anyone else had been injured. He was wearing a safety harness.

The administrative law judge concludes that the most reasonable inference from the evidence is that the claimant quit for financial reasons. Because he was not getting as many hours as he had gotten when he started, he could no longer afford the commute to and from Ottumwa. The claimant knew about the commuting when he started. He voluntarily quit his job and did so without good cause attributable to the employer. Benefits are denied.

**DECISION:**

The decision of the representative dated December 31, 2013, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

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Vicki L. Seeck  
Administrative Law Judge

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Decision Dated and Mailed

vls/pjs