

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RONALD BENTTEN

Claimant

APPEAL NO: 16A-UI-10979-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

R R DONNELLEY & SONS COMPANY

Employer

OC: 09/11/16

Claimant: Appellant (3)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the October 4, 2016, reference 01, decision that denied benefits. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on October 26, 2016. The claimant participated in the hearing. Marcia Vacek, Human Resources Manager and Jeffrey Judis, Operations Manager, participated in the hearing on behalf of the employer.

ISSUE:

The issues are whether the claimant voluntarily left his employment with good cause attributable to the employer and whether he was discharged during his notice period.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time press operator for R R Donnelley & Sons from November 30, 2015 to August 31, 2016.

The claimant submitted his resignation notice August 26, 2016, with an effective date of September 22, 2016. He planned to move in early September 2016 and told some other employees of his plans. When rumors regarding his departure started to fly he informed his supervisor he planned to leave in September 2016. The employer prepared a written resignation notice and the claimant signed it August 26, 2016.

The employer's attendance policy is a no-fault, occurrence based policy and employees are terminated upon reaching seven occurrences within a rolling calendar year. The occurrences begin to count after an employee uses three days without accumulating occurrences. An occurrence is issued if an employee has a full day absence, a no-call no-show absence, is tardy, or leaves early.

The claimant was absent February 24 and March 16, 2016, and received an occurrence for each of those dates; he left early April 5, 2016, and received one occurrence; he was absent May 11, 2016, and received one occurrence; he left early July 19, 2016, and received one occurrence; and he was absent August 29 and 30, 2016, and received one occurrence for each of those dates.

The claimant exceeded the allowed number of attendance points during his resignation notice period and the employer subsequently terminated his employment August 31, 2016.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment without good cause attributable to the employer and was discharged during his notice period.

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.

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. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2.

In this case, the claimant left because he planned to move at the beginning of September 2016 and provided the employer with a verbal notice initially. While he stated he did not read the three line resignation notice the employer prepared subsequent to the claimant providing his notice verbally, he did sign the document and is responsible for the content of that notice.

The claimant provided the employer with a four week resignation notice. During that time frame, however, the claimant exceeded the allowed number of attendance occurrences allowed by the employer's attendance policy. Consequently, the employer terminated the claimant's employment prior to the completion of his notice period. Because the claimant had submitted his notice, the termination for violating the employer's attendance policy during the notice period, affects whether the claimant is eligible for benefits only until the completion of his notice period, not beyond that point. In this case, the employer did not discharge the claimant because he submitted his notice but rather because he happened to exceed the allowed number of attendance occurrences after giving notice he was resigning his position.

Under these circumstances, the administrative law judge must find the claimant submitted his resignation notice and was then discharged during his notice period for disqualifying job misconduct. Therefore, benefits must be denied.

DECISION:

The October 4, 2016, reference 01, decision is modified in favor of the respondent. The claimant voluntarily left his employment without good cause attributable to the employer and was then discharged for misconduct before he completed his notice period. Benefits are denied 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.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs