

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

THOMAS WARNOCK
Claimant

APPEAL NO: 17R-UI-01488-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

J & K CONTRACTING LLC
Employer

OC: 11/20/16
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the December 7, 2016, reference 01, decision that denied benefits. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on March 10, 2017. The claimant participated in the hearing. Matt Runge, Chief Operating Officer and James Graft, former Foreman for the employer, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant voluntarily left his 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 as a full-time equipment operator for J & K Contracting from March 20, 2015 to November 9, 2016. He voluntarily left his employment because he was “tired of being yelled at” by Foreman James Graft.

The claimant worked for most of the employer’s foremen and was moved because of problems with each foreman and crew. Mr. Graft observed that the claimant’s work performance declined over the last two months of his employment and consequently Mr. Graft confronted him about his actions and performance several times per day which upset the claimant. The last incident involved a six foot deep trench. The claimant was not supposed to backfill specific areas of the trench but possibly due to another employee’s error in failing to mark that area of the trench with two by fours the claimant or the other equipment operator backfilled a section of trench, burying the tracer wire and a water pipe. The cement had already been scheduled so by backfilling the trench it impacted the schedule of work and Mr. Graft was upset with the claimant and pointed out the mistake. It was around the lunch break and the claimant left without responding to Mr. Graft and did not return. The employer determined the claimant voluntarily quit his job.

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.

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.

The claimant was upset with Mr. Graft and tired of Mr. Graft yelling at him. Mr. Graft agrees he "had to get on" the claimant much more often during the last couple months of his employment because the claimant's work performance declined significantly. While Mr. Graft may have been able to handle the situation better, the claimant has not demonstrated that his actions toward the claimant were such extent that it warranted the claimant walking off the job. Under these circumstances the administrative law judge must conclude the claimant has not established that his leaving was for good cause attributable to the employer as that term is defined by Iowa law. Therefore, benefits are denied.

DECISION:

The December 7, 2016, reference 01, decision is affirmed. The claimant voluntarily left his 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.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/rvs