

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**BRENT R JUNKER**

Claimant

**APPEAL NO. 14A-UI-10190-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ALL AROUND TOWN OUTDOOR**

Employer

**OC: 11/17/13**

**Claimant: Respondent (2)**

Section 96.5-1 - Voluntary Quit

**STATEMENT OF THE CASE:**

The employer appealed an unemployment insurance decision dated September 23, 2014, reference 01, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on October 21, 2014. The parties were properly notified about the hearing. The claimant participated in the hearing. Jimmy Holt participated in the hearing on behalf of the employer with a witness, Melody Dahms.

**ISSUE:**

Did the claimant voluntarily quit employment without good cause attributable to the employer?

**FINDINGS OF FACT:**

The claimant worked full time for the employer as a landscape foreman from July 7, 2014, to August 21, 2014. Tony Wagner, operations manager, was the claimant's immediate supervisor. Jimmy Holt is the owner of the business.

The claimant and his crew had gotten their 40 hours of work in on August 21. As a result, August 22 was a day off. Jimmy Holt called the claimant on August 22 a few times to find out what the plan was for work on Monday. Holt left a message for the claimant stating that he needed to contact Holt or Wagner about the plans for Monday.

The claimant contacted Tony Wagner and they talked about the plans for work on Monday. Jimmy Holt was unaware of the conversation between the claimant and Wagner and assumed the claimant was avoiding his calls. As a result, Holt decided to test the claimant by sending him a text message saying that there was no work the next week. The claimant responded right away asking why they were not working. Holt and the claimant then talked on the phone. Holt insisted that the claimant needed to do a better job communicating with him. The claimant responded that all he wanted to do was work. He asked Holt if he was firing him. Holt said no. The claimant asked if Holt wanted him to quit, and Holt responded no he did not want the claimant to quit, he wanted the claimant to communicate about future work plans. The claimant then informed Holt about his communication with Wagner, and the conversation ended. Holt never told claimant that he was discharged.

After the call, Holt sent the claimant and Wagner a text message apologizing for overreacting in his conversation with the claimant and not realizing the claimant and Wagner had talked. He said he would "let you guys do your thing from this point out."

The claimant did not report to work on Monday. Instead, he talked to Wagner on Monday morning and told him about the conversation with Holt. He told Wagner, "I guess I'm done," which Wagner interpreted that the claimant was quitting.

The employer's account is not presently chargeable for benefits paid to the claimant since it is not a base period employer on the claim.

#### **REASONING AND CONCLUSIONS OF LAW:**

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code § 96.5-1 and 96.5-2-a.

The findings of fact show how I resolved the disputed factual issues in this case by carefully assessing of the credibility of the witnesses and reliability of the evidence and by applying the proper standard and burden of proof. The claimant's assumption that he was discharged was not reasonable. Holt never said anything that could be interpreted as a discharge. When told Wagner that he guessed he was done, Wagner reasonably believed he was not coming to work and was leaving employment. The claimant voluntarily quit by not returning to work. Continuing work was available for him. Good cause attributable to the employer for quitting has not been shown in this case.

The employer's account is not presently chargeable for benefits paid to the claimant since it is not a base period employer on the claim. If the employer becomes a base period employer in a future benefit year, its account may be chargeable for benefits paid to the claimant based on this separation from employment.

#### **DECISION:**

The unemployment insurance decision dated September 23, 2014, reference 01, is reversed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/css