

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

RONALD E LEISINGER
Claimant

TEREX USA LLC
Employer

APPEAL 15A-UI-11311-JP-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 07/05/15
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the October 1, 2015 (reference 03) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on October 26, 2015. Claimant participated. Employer did not participate.

ISSUE:

Did claimant voluntarily quit the employment with good cause attributable to employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time as a material handler from June 11, 1973 and was separated from employment on August 21, 2015; when he quit.

Around July 21, 2015, the employer started discussing, with any employee that was eligible, an early retirement package. The employer made the eligible employees accept or decline the early retirement package by August 21, 2015. Claimant accepted the offer prior to August 21, 2015. This was a voluntary early retirement. The employer accepted claimant's acceptance. The employer gave claimant the early retirement package on August 21, 2015. There would have been work available for claimant on August 21, 2015, had he not retired. The employer was not going to discharge claimant for not accepting the early retirement package. The offer was to either accept the early retirement package and retire early, or not accept the package and continue to work for the employer.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was without good cause attributable to the employer. Benefits are denied.

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.

Iowa Admin. Code r. 871-24.25(24) 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 § 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 § 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:

(24) The claimant left employment to accept retirement when such claimant could have continued working.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973). 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).

Prior to August 21, 2015, claimant accepted the employer's offer of early retirement. Claimant communicated his acceptance to the employer, which the employer accepted. Claimant then retired on August 21, 2015. If claimant did not accept the employer's offer for early retirement, there was still work available for claimant. While claimant's leaving the employment may have been based upon good personal reasons, it was not for a good cause reason attributable to the employer according to Iowa law. Benefits must be denied.

DECISION:

The October 1, 2015 (reference 03) unemployment insurance decision is affirmed. Claimant voluntarily left the 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.

Jeremy Peterson
Administrative Law Judge

Decision Dated and Mailed

jp/can