

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

VINCENT L JEWELL
Claimant

APPEAL NO. 13A-UI-09435-VS

**ADMINISTRATIVE LAW JUDGE
DECISION**

AMERICAN WINDOW CLEANING QC INC
Employer

OC: 09/30/12
Claimant: Appellant (2)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed an appeal from a representative's decision dated August 7, 2013, reference 04, which held that the claimant was ineligible for unemployment insurance benefits. After due notice, a hearing was held on October 2, 2013, in Davenport, Iowa. The claimant participated personally. The employer did not show up for the hearing. The record consists of the testimony of Vincent Jewell and Claimant's Exhibits A-J.

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 witness and having considered all of the evidence in the record, makes the following findings of fact:

The employer is engaged in washing windows for commercial and residential customers. The employer also cleans gutters and power sprays decks. The claimant was hired on April 4, 2013. He was a full-time employee. His actual last day of work was June 10, 2013.

On June 11, 2013, the employer asked the claimant to go to the employer's personal residence to build a support to the deck on his house. The employer wanted to put a hot tub on his deck. The claimant refused to do this task because it was beyond his expertise. In addition, the employer refused to get the required city and county building permits. The claimant would have been engaged in an illegal project. The claimant asked to be sent out to wash windows, which is the job he was hired to do. The employer refused, saying the crews were full. The claimant offered his two-week notice if the employer intended on using him for carpentry work. The employer told him on June 11, 2013, that his services were no longer needed.

REASONING AND CONCLUSIONS OF LAW:

871 IAC 24.26(1) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(1) A change in the contract of hire. An employer's willful breach of contract of hire shall not be a disqualifiable issue. This would include any change that would jeopardize the worker's safety, health or morals. The change of contract of hire must be substantial in nature and could involve changes in working hours, shifts, remuneration, location of employment, drastic modification in type of work, etc. Minor changes in a worker's routine on the job would not constitute a change of contract of hire.

The claimant is eligible for unemployment insurance benefits. The claimant, in effect, did quit his job but he did so because his employer asked him to perform services beyond the claimant's expertise and not part of the original contract for hire. The claimant was hired to wash windows; clean gutters; and power wash decks. His employer asked him to work on the employer's deck and the claimant did not feel that he was qualified to do that work. He also had legitimate concerns on whether the work was even legal because the employer refused to get the necessary permits. Given this evidence, the claimant had good cause for quitting his job due to a substantial change in the contract of employment. Benefits are allowed if the claimant is otherwise eligible.

DECISION:

The decision of the representative dated August 7, 2013, reference 04, is reversed. Unemployment insurance benefits are allowed, if the claimant is otherwise eligible.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/css