

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**DALE JOHNSON**  
Claimant

**RHINEHART RAILROAD**  
Employer

**APPEAL 16R-UI-05066-LJ-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 01/31/16**  
**Claimant: Appellant (1)**

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Iowa Code § 96.5(1) – Voluntary Quitting  
Iowa Admin. Code r. 871 24.25(32) – Refusing to Transfer

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the February 24, 2016, (reference 01) unemployment insurance decision that denied benefits based upon a determination that claimant voluntarily quit his employment when he refused a transfer. The parties were properly notified of the hearing. A telephone hearing was held initially March 21, 2016. The claimant and employer both participated in the hearing. This administrative law judge issued a decision on the merits on March 22, 2016, concluding that the claimant voluntarily quit his employment effective January 10, 2016, and he was not eligible for benefits. Claimant appealed this decision to the Employment Appeal Board.

The Employment Appeal Board remanded the matter to the Iowa Workforce Development Appeals Bureau for further development of the record. Specifically, the Employment Appeal Board remanded the matter to determine the extent of travel that was contemplated in claimant's original contract of hire, which would help determine whether claimant had good cause to refuse to transfer.

The administrative law judge held a second hearing on May 16, 2016, after both parties were properly notified. The claimant, Dale Johnson, participated. The employer, Rhinehart Railroad, participated through Richard Rhinehart, Vice President; and Chris Wysocki, Safety Officer. Employer's Exhibits A and B were received and admitted into the record.

**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 an operator/trackman from early November 2015, until this employment ended in mid-January 2016, when he voluntarily quit rather than transferring.

Claimant initially obtained employment with the employer in Sergeant Bluff, Iowa. This is the only project claimant worked on during his employment. Claimant acknowledges that the employer states that travel is required. Rhinehart testified travel is essential and the employer would not hire any employee full time who was unwilling to travel. Claimant signed a copy of the employer's Rules of Employment stating that travel is required. (Exhibit B) Additionally, claimant previously worked for the employer in Maryland and was aware that they operated both in Iowa and on the East Coast.

Rhinehart next spoke to claimant on January 9, 2016, about a month and a half into the layoff. He said there was a job available to hold claimant over during the layoff. This position was in Winchester, Virginia. The employer said claimant would keep his same wage rate, would be housed in a hotel, and would earn travel time. Claimant declined this opportunity to resume working. Claimant and Rhinehart agreed that claimant would be available for the Sergeant Bluff job when that resumed.

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

For the reasons that follow, the administrative law judge concludes claimant voluntarily quit his employment when he was offered and refused a transfer to a different location. Benefits are withheld.

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(32) 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:

(32) The claimant left by refusing a transfer to another location when it was known at the time of hire that it was customary for employees to transfer as required by the job.

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).

While claimant was laid off from the employer, Rhinehart contacted him and offered him an opportunity to resume working. Claimant refused this transfer. Claimant was aware at the time he was hired that travel was required, and his own experience working for the employer put him on notice that the employer operated on the East Coast. Claimant did not provide sufficient evidence to show his transfer to Virginia would have amounted to a change in his contract of hire. While claimant may have refused the transfer for good personal reasons, it was not for a good-cause reason attributable to the employer according to Iowa law. Benefits are withheld.

**DECISION:**

The February 24, 2016, (reference 01) unemployment insurance decision is affirmed. Claimant voluntarily quit his employment by refusing to transfer, though he was aware at the time he was hired that travel was required and that the employer operated on the East Coast and he may need to transfer there. Benefits are withheld.

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Elizabeth Johnson  
Administrative Law Judge

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Decision Dated and Mailed

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