

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

RYAN D SPRING

Claimant

SMITH MASSMAN LANDSCAPE

Employer

APPEAL 19A-UI-09875-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 06/02/19

Claimant: Appellant (1)

Iowa Code § 96.5-1 - Voluntary Quit
Iowa Code § 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Ryan Spring (claimant) appealed a representative's December 9, 2019, decision (reference 05) that concluded he was not eligible to receive unemployment insurance benefits because he had voluntarily quit employment with Smith Massman Landscape (employer) on October 9, 2019. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for January 10, 2020. The claimant participated personally. The employer did not provide a telephone number where it could be reached and therefore, did not participate in the hearing. The administrative law judge took official notice of the administrative file. The claimant waived notice and the issue of whether he was able and available for work was heard.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason and whether the claimant is able and available for work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired in the spring of 2019, as a full-time foreman. He last performed services in October 2019. The claimant was in contact with the owner for a few days. He told the owner he was too sick to work due to a change in his medication.

At some point in the fall of 2019, the owner and the claimant talked. The claimant indicated he needed time off to get his medications straightened out, feel better, and move into a different residence. The owner said he understood. The claimant stopped working and filed an additional claim for unemployment insurance benefits with an effective date of November 3, 2019. Continued work was available had the claimant not resigned. Later on a date unknown to the claimant, the employer laid workers off. The claimant was not available for work for a few weeks after he told the employer he needed time off.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant voluntarily quit work without good cause attributable to the employer.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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(20) 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 section 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 section 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:

- (20) The claimant left for compelling personal reasons; however, the period of absence exceeded ten working days.

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). The claimant's intention to voluntarily leave work was evidenced by his words and actions. He was absent from work for personal reasons for more than ten working days. When an employee is absent from work for more than ten working days for compelling personal reasons, his leaving is without good cause attributable to the employer. The claimant left work for more than ten working days for compelling personal reasons. His leaving was without good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

The next issue is whether the claimant was able and available for work.

Iowa Admin. Code r. 871-24.23(16) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

- (10) The claimant requested and was granted a leave of absence, such period is deemed to be a period of voluntary unemployment and shall be considered ineligible for benefits for such period.

- (16) Where availability for work is unduly limited because a claimant is not willing to work during the hours in which suitable work for the claimant is available.

When an employee requests and is granted time off, he is considered to be unavailable for work. Likewise, when he requests and is granted a leave of absence, he is considered to be voluntarily unemployed.

The claimant was not willing to work his regular hours and requested time off. The employer granted his request. The change in hours was initiated by the claimant. He is considered to be unavailable for work as of October 9, 2019. The claimant is disqualified from receiving unemployment insurance benefits from October 9, 2019, due to his unavailability for work.

DECISION:

The representative's December 9, 2019, decision (reference 05) is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount provided the claimant is otherwise eligible. He was not able and available for work as of October 9, 2019.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/rvs