

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

ANDREW HERRON
Claimant

ABC METALS & RECYCLING CO INC
Employer

APPEAL NO. 14A-UI-07849-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 07/06/14
Claimant: Appellant (1)

Iowa Code § 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Andrew Herron (claimant) appealed an unemployment insurance decision dated July 23, 2014, (reference 01), which held that he was not eligible for unemployment insurance benefits because he voluntarily quit his employment with ABC Metals and Recycling Company, Inc. (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 23, 2014. The claimant did not comply with the hearing notice instructions and did not register a telephone number at which he could be contacted, and therefore, did not participate. The employer participated through Daniel McCoy, Vice-President. Employer's Exhibits One and Two were admitted into evidence.

ISSUE:

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant worked as a full-time driver from March 28, 2014, through July 8, 2014, when he voluntarily quit. He performed light-duty warehouse work when his truck was in for repair and/or when the weather prohibited driving. Towards the end of May 2014, the claimant had excessive absences due to child care issues. He texted the employer on July 3, 2014, to request the afternoon off work on July 8, 2014, and the entire day off on July 17, 2014. The employer denied the request and advised him that he was needed at work every day. On Monday, July 7, 2014, the claimant worked a half day and went into the employer's office and said he had to leave for a doctor's appointment. The employer advised him there were more jobs to do and requested the claimant return to work after his appointment. The claimant said he might come back afterwards but failed to do so and failed to call. He did not report to work on July 8, 2014, and later sent the employer a text message stating that he voluntarily quit because the truck was unsafe to drive. The claimant had never previously indicated this was an issue and if he felt it was unsafe, he could have worked in the warehouse.

REASONING AND CONCLUSIONS OF LAW:

The issue to be determined is whether the reasons for the claimant's separation from employment qualify him to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if he voluntarily quit without good cause attributable to the employer. Iowa Code § 96.5-1.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980) and *Peck v. Employment Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant demonstrated his intent to quit and carried out that intent when he failed to call or return to work after his doctor's appointment on July 7, 2014. He confirmed he was quitting when he sent the employer a text message on July 8, 2014, confirming that he quit.

The reason the claimant provided the employer as to why he quit had never previously been mentioned as an issue. However, if it was, he could have continued working in the warehouse until the truck was fixed to his satisfaction.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. He has not satisfied that burden. Benefits are denied.

DECISION:

The unemployment insurance decision dated July 23, 2014, (reference 01), is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/css