

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LORENZO D THOMPSON
Claimant

SHORT STAFFED INC
Employer

APPEAL 19A-UI-02791-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/10/19
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the March 27, 2019, (reference 01) representative decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on April 23, 2019. Claimant participated. Employer participated through Ashley Ahrendsen, Payroll Manager.

ISSUE:

Did the claimant voluntarily quit his employment without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was last assigned to work at Fratco full time as general laborer beginning on November 5, 2018 through March 5, 2019, when he voluntarily quit his assignment by walking off the job. On March 5 the claimant's supervisor contacted Short Staffed to tell them that the claimant had left for his lunch break on March 5 and had not returned. Fratco requested the claimant's not be returned to the assignment as he had walked off the job.

On March 6 Short Staff called the claimant to find out what had happened. The claimant never told Short Staffed that he had left work the day before because he was ill. The claimant never told Short Staffed that he had sent a text message to his supervisor saying he was ill and would not be returning to work. The claimant did tell Short Staffed that he would no longer be working for them because they were garnishing his wages for the taxes owed to the Iowa Department of Revenue and for child support. The employer was obligated to follow garnishment orders for child support and unpaid taxes.

The claimant was discharged from his assignment at Fratco because he walked off the job without permission.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment 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(27) 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:

(27) The claimant left rather than perform the assigned work as instructed.

It is the duty of the administrative law judge as the trier of fact in this case, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa Ct. App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *State v. Holtz*, Id. In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other believable evidence; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *State v. Holtz*, Id.

The claimant was a less credible witness than the employer. The claimant had the ability to provide documents for the hearing but did not follow the instructions on the hearing notice for doing so. The employer made notes of the conversation that took place when they spoke to the claimant on March 6. Claimant mixed up the days that events took place and was inconsistent in his testimony.

When the employer contacted the claimant on March 6 to find out what had occurred the day before the claimant specifically told them he would not work for the company any longer because his wages were being garnished for child support and back taxes. Voluntarily quitting work because child support and back taxes are being taken from your wages is not a good cause reason attributable to the employer for leaving the employment. Benefits are denied.

DECISION:

The March 27, 2019, (reference 01) decision is affirmed. The claimant voluntarily left his 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.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/rvs