

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CURTIS A DECKER
Claimant

M A MORTENSON CO
Employer

APPEAL 18A-UI-12299-CL-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 12/10/17
Claimant: Appellant (4)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the December 20, 2018, (reference 03) unemployment insurance decision that denied benefits based upon a separation from employment. The parties were properly notified about the hearing. A telephone hearing was held on January 11, 2019. Claimant participated. Employer chose not to participate in the hearing.

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 began working for employer on June 4, 2018. Claimant last worked as a full-time heavy equipment operator. Claimant was separated from employment on November 21, 2018, when he resigned before a scheduled layoff.

On November 22, 2018, claimant suffered a loss in his family. On November 23, 2018, claimant returned to work and asked to take bereavement leave. Employer notified claimant it would be soon laying off employees for the season and allowed claimant to take an early layoff.

Employees in claimant's position were laid off on December 17, 2018.

Claimant plans on returning to work for employer in the spring.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment with 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(29) 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:

(29) The claimant left in anticipation of a layoff in the near future; however, work was still available at the time claimant left the employment.

Iowa Admin. Code r. 871-24.26(13) 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:

(13) A claimant who, when told of a scheduled future layoff, leaves employment before the layoff date shall be deemed to be not available for work until the future separation date designated by the employer. After the employer-designated date, the separation shall be considered a layoff.

By the time claimant had quit, employer had already made the decision to layoff claimant due to a lack of work. Since the layoff began on or about December 17, 2018, claimant is entitled to benefits from December 16, 2018, forward. Because he left in advance of the announced layoff, benefits are denied through the week ending December 15, 2018.

DECISION:

The December 20, 2018, (reference 03) decision is modified in favor of appellant. The claimant voluntarily left the employment in advance of a scheduled layoff. Benefits are denied through December 15, 2018, and allowed effective December 16, 2018, provided he is otherwise eligible.

Christine A. Louis
Administrative Law Judge
Unemployment Insurance Appeals Bureau
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Decision Dated and Mailed

cal/scn