

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

BRADFORD J WALTERS
Claimant

APPEAL 17A-UI-06969-JP-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

WEBSTER CITY COMMUNITY SCHOOL DIS
Employer

**OC: 06/18/17
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the July 7, 2017, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on July 27, 2017. Claimant participated. Sue Walters observed the hearing on claimant's behalf. Employer participated through business manager and school board secretary Cathi Hildebrand. Employer Exhibit 1 was admitted into evidence with no objection. Official notice was taken of the administrative record, including claimant's wage history and claimant benefit history, with no objection.

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 part-time as a route school bus driver from September 2006, and was separated from employment on July 11, 2016, when he quit.

Prior to July 11, 2016, claimant provided the employer notification that he was retiring effective July 11, 2016. Employer Exhibit 1. The employer accepted claimant's retirement. Claimant retired on July 11, 2016. Employer Exhibit 1. The employer had work available for claimant for the upcoming school year had he not retired.

The administrative record reflects that claimant has not requalified for benefits and is no longer otherwise monetarily eligible for benefits after this employer's wages are excluded from the base period.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes claimant voluntarily quit the employment without good cause attributable to the employer, has not requalified, and is not otherwise monetarily eligible for benefits.

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 Code section 96.5(1)g 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. But the individual shall not be disqualified if the department finds that:

g. The individual left work voluntarily without good cause attributable to the employer under circumstances which did or would disqualify the individual for benefits, except as provided in paragraph "a" of this subsection but, subsequent to the leaving, the individual worked in and was paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

Iowa Admin. Code r. 871-24.27 provides:

Voluntary quit of part-time employment and requalification. An individual who voluntarily quits without good cause part-time employment and has not requalified for benefits following the voluntary quit of part-time employment, yet is otherwise monetarily eligible for benefits based on wages paid by the regular or other base period employers, shall not be disqualified for voluntarily quitting the part-time employment. The individual and the part-time employer which was voluntarily quit shall be notified on the Form 65-5323 or 60-0186, Unemployment Insurance Decision, that benefit payments shall not be made which are based on the wages paid by the part-time employer and benefit charges shall not be assessed against the part-time employer's account; however, once the individual has met the requalification requirements following the voluntary quit without good cause of the part-time employer, the wages paid in the part-time employment shall be available for benefit payment purposes. For benefit charging purposes and as determined by the applicable requalification requirements, the wages paid by the part-time employer shall be transferred to the balancing account.

This rule is intended to implement Iowa Code section 96.5(1)g.

Iowa Admin. Code r. 871-24.25(24) 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:

(24) The claimant left employment to accept retirement when such claimant could have continued working.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). 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).

Inasmuch as claimant quit left employment to accept retirement, the separation is disqualifying. Furthermore, since claimant has not requalified for benefits since the separation and is not otherwise monetarily eligible according to base period wages, benefits are denied until he requalifies and is otherwise eligible for benefits. Benefits are denied.

DECISION:

The July 7, 2017, (reference 01), unemployment insurance decision is affirmed. Claimant voluntarily quit the employment without good cause attributable to the employer, has not requalified for benefits, and is not otherwise monetarily eligible. Benefits are withheld until such time as claimant works in and has been paid wages equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Jeremy Peterson
Administrative Law Judge

Decision Dated and Mailed

jp/rvs