

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TODD A SUTTON
Claimant

MASTERSON PERSONNEL INC
Employer

APPEAL 16A-UI-07258-LJ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 07/19/15
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Admin. Code r. 871-24.25(20) – Compelling Personal Reasons Exceeding Ten Days

STATEMENT OF THE CASE:

The claimant filed an appeal from the June 24, 2016, (reference 06) unemployment insurance decision that denied benefits based upon a determination that claimant voluntarily quit work for personal reasons. The parties were properly notified of the hearing. A telephone hearing was held on July 20, 2016. The claimant, Todd A. Sutton, participated. Witness Johnny Lee also testified on claimant's behalf. The employer, Masterson Personnel, Inc., participated through Connie Pletcher, recruiter; and Jim Robertson, unemployment operations manager.

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 full time as a temporary employee, most recently assigned as a shipping department employee at Serta, from approximately December 2014, until this employment ended on May 5, 2016, when he quit.

Claimant resigned from his employment and gave a two-week notice to his supervisor, Serta employee Victor Madrigal. Claimant needed to serve two weeks in the Cerro Gordo County Jail as the result of a plea deal he entered into for the charge of driving without a license. The employer allowed claimant to work out his notice period and end his employment on May 5, 2016.

Claimant testified that he asked Madrigal for time off but was told that he could not have time off because he was only a temporary employee. Claimant also testified that Madrigal told him that he could come back to work after he was released. Claimant did not ask Pletcher or anyone else from the employer about taking a leave of absence, nor did he discuss with them his plan to return to work after serving two weeks in jail.

Claimant reported back to the employer after he was released from jail. The employer no longer had any assignments available to him because of his criminal background. Pletcher explained that claimant's placement site, Serta, required each employee to have no misdemeanor convictions within the past three years.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from employment was without good cause attributable to the employer. Benefits are withheld.

Iowa Code §96.5(1) provides:

An individual shall be disqualified for benefits:

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.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973). Here, claimant chose to quit his employment in order to serve a short sentence in jail. This is not a reason attributable to his employer.

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). Here, claimant submitted a resignation notice and departed from his employment on his scheduled end date. Even if claimant was misinformed by Madrigal that he could return to work, Madrigal was not actually employed by his employer. Claimant never informed his employer directly that he planned to return to work. Moreover, claimant did not believe he was on any sort of an approved leave of absence. He knew that he was ending his employment in order to serve his two weeks in jail. While claimant may have left his job for good personal reasons, this reason was not good cause attributable to the employer. Benefits are withheld.

DECISION:

The June 24, 2016, (reference 06) unemployment insurance decision is affirmed. Claimant voluntarily left the 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.

Elizabeth Johnson
Administrative Law Judge

Decision Dated and Mailed

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