

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

CORY M STAFFORD
Claimant

APPEAL NO. 10A-UI-03839-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

KEVCON CORPORATION
Employer

**Original Claim: 02/14/10
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed an appeal from a representative's decision dated March 10, 2010, reference 01, which held the claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on April 27, 2010. The claimant participated. The employer participated by David Wilson, president; Kirk Hansen, production manager; and Mark Loots, supervisor. The record consists of the testimony of Cory Stafford; the testimony of Mark Loots; the testimony of Kirk Hansen; and the testimony of David Wilson.

ISSUE:

Whether the claimant voluntarily left for good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The employer manufactures pontoon boats and aluminum fishing boats. The claimant was hired on November 30, 2009, as a full-time welder.

On February 2, 2010, the claimant gave a two-week notice to Mark Loots, his supervisor. The resignation was accepted. Mr. Loots informed Kirk Hansen, the production manager, and plans were made to hire a replacement for the claimant. The conversation between Mr. Loots and the claimant took place at 2:15 p.m. At 3:45 p.m., the claimant called Mr. Hansen and asked him if he still had a job. Mr. Hansen told the claimant that he had given his two-week notice and that it had been accepted. It would be up to Mr. Loots if he wanted to restore the claimant's job. The employer elected not keep the claimant on after the two-week notice period was up.

The claimant attempted to return to work on February 17, 2010. He was informed that he was no longer an employee. The claimant refused to leave. A police officer had to be called to escort the claimant from the premises.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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.

871 IAC 24.25(37) 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:

(37) The claimant will be considered to have left employment voluntarily when such claimant gave the employer notice of an intention to resign and the employer accepted such resignation. This rule shall also apply to the claimant who was employed by an educational institution who has declined or refused to accept a new contract or reasonable assurance of work for a successive academic term or year and the offer of work was within the purview of the individual's training and experience.

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). The claimant's intention to voluntarily leave work was evidenced by his words and actions. He told the employer on February 2, 2010, that he was giving his two-week notice. When an employee gives notice of an intent to quit and the employer accepts the employee's resignation, his leaving is without good cause attributable to the employer. The claimant told the employer he was quitting and the employer accepted the claimant's resignation. His leaving was without good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

DECISION:

The representative's decision dated March 10, 2010, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until the claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/kjw