

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

FRANCISCO HERRERA
Claimant

APPEAL NO: 13A-UI-11770-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

CHENHALLS STAFFING SERVICES INC
Employer

**OC: 01/27/13
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the October 10, 2013, reference 01, decision that denied benefits. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on November 13, 2013. The claimant participated in the hearing. Mike Gowdy, Staffing Coordinator, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant voluntarily left his employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time seasonal laborer for Chenhall's Staffing Services, assigned to work for the City of Davenport, from May 1, 2012 to September 17, 2013. He quit his job after an argument with his supervisor.

During the summer hours the claimant worked from 6:00 a.m. to 2:00 p.m. because he worked outdoors and it was hot during the summer and early fall. When it started getting darker in the mornings, the employer notified employees two weeks in advance that their work hours would be changing to 7:00 a.m. to 3:00 p.m. effective September 17, 2013.

The morning of September 17, 2013, the claimant began questioning his supervisor regarding why the employees could not come in to start work at 6:00 a.m. The supervisor gave him the same explanation it previously gave when it informed employees of the change in hours. The reasons cited by the employer did not satisfy the claimant and he became argumentative, loud and disrespectful toward the supervisor. The claimant then took off his shirt and hat and the supervisor attempted again to explain the reason for the change in hours but the claimant remained defiant and argumentative. Finally, the supervisor told him if he did not like it he could leave. Consequently, the claimant quit by walking off the job.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment without good cause attributable to the employer.

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.

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. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2.

While the claimant disagreed with the change in the crew's start time from 6:00 a.m. to 7:00 a.m., he had been told of the change two weeks in advance and did not complain until the actual day of the change, at which time he was loud and disrespectful toward his supervisor. The employer's decision to change the start time from 6:00 a.m. to 7:00 a.m., based on the weather and how dark it is at that hour, was perfectly reasonable and even though the claimant wanted to keep his 6:00 a.m. start time, his decision to quit rather than start work at 7:00 a.m. does not constitute a good cause reason attributable to the employer for his leaving. The employer has not demonstrated a substantial change in his contract of hire or that the working conditions were unlawful, intolerable, or detrimental as required by Iowa law. Therefore, benefits are denied.

DECISION:

The October 10, 2013, 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.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/css