

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

FELIPE VILLARREAL
Claimant

BROCK SERVICES LLC
Employer

APPEAL 16A-UI-13830-NM-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 11/27/16
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 December 23, 2016, (reference 01) unemployment insurance decision that denied benefits based upon his voluntary quit. The parties were properly notified of the hearing. A telephone hearing was held on January 20, 2017. The claimant Felipe Villarreal participated and testified. The employer Brock Services LLC participated through General Superintendent Juan Ayala. Claimant's Exhibits A through D were received into evidence.

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 scaffold builder from January 7, 2016, until this employment ended on August 2, 2016, when he voluntarily quit.

In January 2016 claimant was criminally charged with operating while intoxicated – third offense. In July 2016 claimant had determined he was going to plead guilty to the charge and was advised by his attorney that he would have to serve a mandatory 60 day jail sentence. Claimant determined he would need some time to get his affairs in order prior to serving his jail time. Sometime towards the end of July or early August claimant notified his immediate supervisor of his situation and told him that he was quitting in order to prepare for his jail sentence. Claimant was sentenced to 60 days in jail on August 24, 2016.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was 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.

Iowa Admin. Code r. 871-24.25 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). 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).

Claimant quit work on August 2, 2016 in order to give himself time to prepare for a jail sentence, which he began serving on August 24, 2016. Claimant was absent from work for more than 10 working days. While claimant's leaving may have been based upon good personal reasons, it was not for a good-cause reason attributable to the employer according to Iowa law. Benefits are denied.

DECISION:

The December 23, 2016, (reference 01) unemployment insurance decision is affirmed. The claimant voluntarily left his employment without good cause attributable to the employer. Benefits are withheld until such time as he is deemed eligible.

Nicole Merrill
Administrative Law Judge

Decision Dated and Mailed

nm/