

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**DAN E RENDER**  
Claimant

**ABM LTD**  
Employer

**APPEAL 19A-UI-00688-LJ-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 12/16/18**  
**Claimant: Appellant (1)**

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Iowa Code § 96.5(1) – Voluntary Quitting

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the January 14, 2019, (reference 01) unemployment insurance decision that denied benefits based upon a determination that claimant voluntarily quit his employment for personal reasons. The parties were properly notified of the hearing. A telephonic hearing was held on February 7, 2019. The claimant, Dan E. Render, participated. The employer, ABM, Ltd., participated through Gregg Sterns, Human Resources 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, most recently as a janitor, from June 28, 2018, until September 12, 2018, when he quit. Claimant provided several days' notice that he was quitting, and he was allowed to work through his intended last date of employment. Continued work was available, had claimant not quit his job.

Claimant gave two reasons for quitting. First, he was working longer hours than he should have been working and he was concerned he was going to get in trouble for this. Second, claimant was having health issues related to his legs. Claimant explained that his legs were swelling up and he had a rash. He has been seeing a doctor, but there has not yet been an official diagnosis of the issue. Claimant experienced this issue to some degree before he began employment, and he continued to experience it after his employment ended.

**REASONING AND CONCLUSIONS OF LAW:**

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

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

d. The individual left employment because of illness, injury or pregnancy upon the advice of a licensed and practicing physician, and upon knowledge of the necessity for absence immediately notified the employer, or the employer consented to the absence, and after recovering from the illness, injury or pregnancy, when recovery was certified by a licensed and practicing physician, the individual returned to the employer and offered to perform services and the individual's regular work or comparable suitable work was not available, if so found by the department, provided the individual is otherwise eligible.

Iowa Admin. Code r. 871-24.25(35) 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:

(35) The claimant left because of illness or injury which was not caused or aggravated by the employment or pregnancy and failed to:

- a. Obtain the advice of a licensed and practicing physician;
- b. Obtain certification of release for work from a licensed and practicing physician;
- c. Return to the employer and offer services upon recovery and certification for work by a licensed and practicing physician; or
- d. Fully recover so that the claimant could perform all of the duties of the job.

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).

In this case, it does not appear that claimant obtained the advice of a physician before quitting his employment. Rather, he decided independently that he needed to quit his employment because of the issue he was experiencing with his legs. Therefore, claimant cannot meet the requirements of Iowa Code section 96.5(1)d. Claimant has not presented any other reason for quitting that is a good cause reason attributable to the employer. Benefits are withheld.

**DECISION:**

The January 14, 2019, (reference 01) unemployment insurance decision is affirmed. Claimant separated from 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.

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Elizabeth A. Johnson  
Administrative Law Judge

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Decision Dated and Mailed

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