

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GARY M OELERICH
Claimant

APPEAL NO. 13A-UI-10096-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

GEORGIA PACIFIC CORREGATED LLC
Employer

OC: 10/07/13
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed an appeal from the August 28, 2013, (reference 01) unemployment insurance decision that denied benefits. After due notice was issued a hearing was held on September 30, 2013. Claimant participated. Employer participated through Mary Jo Kenneally, Human Resources Manager.

ISSUE:

Did the claimant voluntarily quit his employment without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as an unlimited laborer beginning on February 13, 2013 through May 30, 2013, when he voluntary quit. When the claimant was hired he was told that overtime was part of the job responsibilities and would be required when needed by the employer. The claimant quit because he did not want to work overtime. The first week the claimant had to work overtime was the week of May 14. He was required to work five different Saturdays for overtime. The claimant never complained about the fork-lift drivers until long after he quit his job. He made no mention to the fact-finder that he quit because of the way the fork lift drivers drove.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the 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.

871 IAC 24.25(18), (21) 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:

(18) The claimant left because of a dislike of the shift worked.

(21) The claimant left because of dissatisfaction with the work environment.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). 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 left solely because he did not want to work overtime despite having been told by the employer that the position required overtime. During his employment the claimant never complained about the fork lift drivers to the employer nor did he mention it during the fact-finding interview. The claimant is alleging the problem with the fork lift drivers in an attempt to secure unemployment insurance benefits. He quit solely due to the overtime required. While claimant's decision to quit may have been based upon good personal reasons it was not a good-cause reason attributable to the employer for leaving the employment. Benefits must be denied.

DECISION:

The August 28, 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.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/pjs