

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MICHEAL W RHINER
Claimant

APPEAL NO. 10A-UI-09311-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAYNE RHINER PLUMBING LLC
Employer

OC: 05/16/10
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed a timely appeal from a representative's decision dated June 23, 2010, reference 01, which denied benefits based upon his separation from Wayne Rhiner Plumbing, LLC. After due notice a hearing was held on August 16, 2010. Claimant participated. The employer participated by Debbie Rhiner, Company Owner.

ISSUE:

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

FINDINGS OF FACT:

Having considered all of the evidence in the record, the administrative law judge finds: Micheal Rhiner was employed by Wayne Rhiner Plumbing, LLC. from December 15, 2005 until May 11, 2010 when he voluntarily quit employment. Mr. Rhiner worked as a full-time plumber and was paid by the hour. His immediate supervisor was Debbie Rhiner, Company Owner.

Mr. Rhiner left his employment on May 11, 2010 because of dissatisfaction with the requirement that he handle a number of additional plumbing calls that had come in that day. It initially appeared that day that the company would not be busy and another plumber was not brought in by the company. Mr. Rhiner was the sole plumber on duty that day and had been told that he could leave work at approximately 3:00 p.m. When additional plumbing calls came in, the calls were assigned to the claimant. At approximately 2:00 p.m. that day Mr. Rhiner had two calls left unfinished and telephoned the employer indicating that he was quitting employment.

Earlier on May 11, Mr. Rhiner had indicated his desire to leave full-time employment and work only part-time two days a week and take night calls. When the employer was unable to accommodate those requests, Mr. Rhiner indicated that he would be quitting, as he was "burned out" and his desire was to stay home and assist his wife with her day care business. Mr. Rhiner had promised to give the employer a few weeks' notice before leaving.

It is the claimant's position he left employment not only due to the factors of May 11, 2010 but also because of general dissatisfaction with previous issues about pay for hours worked, about violations of code and because of concerns that he might be affected by criminal proceedings against his employer. Prior to leaving employment Mr. Rhiner did not indicate these were reasons for leaving and had not stated he would leave if the past problems were not rectified.

REASONING AND CONCLUSIONS OF LAW:

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

An individual who voluntarily leaves their employment must first give notice to the employer of the reasons for quitting in order to give the employer an opportunity to address or resolve the complaint. Cobb v. Employment Appeal Board, 506 N.W.2d 445 (Iowa 1993). An employee who receives a reasonable expectation of assistance from the employer after complaining about working conditions must complain further if conditions persist in order to preserve eligibility for benefits. Polley v. Gopher Bearing Co., 478 N.W.2d 775 (Minn App. 1991).

On May 11, 2010, Mr. Rhiner's primary reason for leaving employment was dissatisfaction with plumbing assignments that had unexpectedly come in that day. Mr. Rhiner initially believed that he would be off work at 3:00 p.m. that day but because of additional assignments, the employer expected Mr. Rhiner to complete the calls. The claimant chose not to do so but instead to relinquish his position with the company by verbally resigning via telephone at approximately 2:00 p.m. that day. Mr. Rhiner did not indicate dissatisfaction with past pay, code issues or potential legal issues of the employer at that time or in the weeks preceding his decision to leave employment. The claimant did, however, state a desire to quit full-time employment to devote time to other interests.

Inasmuch as the claimant did not give the employer an opportunity to resolve his complaints prior to leaving employment, the separation was without good cause attributable to the employer. Benefits are denied.

DECISION:

The representative's decision dated June 23, 2010, reference 01, is affirmed. The claimant quit employment without good cause attributable to the employer. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, and meets all other eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs