

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**RUBEN CASTANEDA**  
Claimant

**CONCRETE CENTRAL LLC**  
c/o **JEFF HARRIS**  
Employer

**APPEAL 21A-UI-07393-S1-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 11/29/20**  
**Claimant: Appellant (1)**

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Iowa Code § 96.5-2-a – Discharge for Misconduct  
Iowa Code § 96.5-1 - Voluntary Quit

**STATEMENT OF THE CASE:**

Ruben Castaneda (claimant) appealed an Iowa Workforce Development March 4, 2021, decision (reference 01) that concluded ineligibility to receive unemployment insurance benefits due to voluntarily quitting with the Concrete Central (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for May 21, 2021. The claimant participated personally. The employer participated by Jeff Harris, Owner. The administrative law judge took official notice of the administrative file.

**ISSUE:**

The issue is whether the claimant was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant worked for the employer from July 11, 2019, to November 22, 2019 as a full-time concrete cutter. When he was hired, he told the employer he wanted to be considered seasonal. The claimant remembered thinking he wanted to go to California to visit a relative in the winter. The employer remembered the claimant telling him he was going to have hip surgery in the winter. The week of November 18, 2019, the claimant told the employer that Friday, November 22, 2019, would be his last day. Continued work was available with the employer had the claimant not resigned.

The claimant had hip surgery and his doctor restricted him from working for six months. The claimant is self-employed. He owns R.C. Concrete Cutting.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow the administrative law judge concludes the claimant voluntarily quit work without good cause attributable to the employer.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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(20) provides:

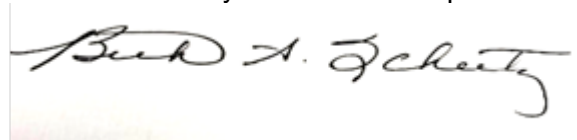
Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified 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.

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's intention to voluntarily leave work was evidenced by his words and actions. He told the employer he was leaving and was absent from work for personal reasons for more than ten working days. When an employee is absent from work for more than ten working days for compelling personal reasons, his leaving is without good cause attributable to the employer. The claimant cannot call his work seasonal in an effort to cause the employer liability for his separation. His leaving was without good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

**DECISION:**

The representative's March 4, 2021, decision (reference 01) is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount provided the claimant is otherwise eligible.



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Beth A. Scheetz  
Administrative Law Judge

June 1, 2021  
Decision Dated and Mailed

bas/scn