

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JOSHUA GRUBBS
Claimant

JENSEN & SON CONSTRUCTION LC
Employer

APPEAL NO. 18A-UI-09154-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 07/22/18
Claimant: Appellant (1)**

Iowa Code § 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated August 21, 2018, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on September 20, 2018. Claimant participated. Employer participated by Dana Jensen, Greg Derry and Bryce Leeper.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on July 18, 2018. Claimant was late to work on July 17, 2018 and approximately 15 minutes late to work on July 18, 2018. Claimant stated that he had to drop off a child at a daycare that was located next door to employer. The day care didn't open until 7 a.m., so claimant didn't get to work until after the time he was to arrive.

On July 18, 2018, prior to claimant's arrival at work, employer told one of claimant's co-workers that he was going to talk with claimant and his wife once they arrived. Employer gave no indication to the co-worker that he was going to terminate claimant when speaking with the co-worker. Employer stated while in the office with claimant, claimant became bothered with employer's reprimand and verbal warning and walked out of the office, quitting his work. Employer stated that there was still ongoing work available for claimant at the time of his quit.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 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(28) 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:

(28) The claimant left after being reprimanded.

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because he was reprimanded by employer.

Initially, the administrative law judge finds that claimant quit his employment and was not terminated by employer. The judge reaches this decision based on the testimony of claimant's co-worker, who'd spoken with the owner immediately before the owner took claimant and his wife into the office. The owner told the co-worker that he needed to talk with the couple prior to all parties going out to their jobs for the day. If the owner had been intending to terminate the employees at the meeting, plans would have likely needed to have been coordinated prior to the meeting such that the labor could have been re-divided for the upcoming projects of the day. As owner did not do this and did not indicate to the co-worker that he was terminating the couple, the administrative law judge believes employer was not attempting to terminate claimant during the meeting. Rather, claimant chose not to want to hear the reprimand and chose to quit.

Claimant knew that he needed to be at work at or around 7:00 a.m. On the last day, claimant and his wife were over fifteen minutes late to work. The daycare center where the child was being dropped off was very close to employer's shop. There is no reason claimant couldn't have been waiting at the door at the opening of the daycare so he and his wife wouldn't be over fifteen minutes late to work after previous concerns regarding tardiness had been expressed.

The administrative law judge then looks at the circumstances of the quit to determine if the quit was for "good cause". Ordinarily "good cause" is derived from the facts of each case keeping in mind the public policy stated in Iowa Code Section 96.2. *O'Brien v. EAB* 494 N.W.2d 660, 662 (Iowa 1993) (citing *Wiese v. IA Dept. of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986)). "The term encompasses real circumstances, adequate excuses that will bear the test of reason, just grounds for the action, and always the test of good faith." *Wiese v. IA Dept. of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986). "Common sense and prudence must be exercised in evaluating all of the circumstances that led to an employee's quit in order to attribute the cause for the termination." *Id.* Here, claimant and employer had not communicated adequately regarding claimant's needs to transport a child to a daycare center that didn't open until the time claimant was to be at work. Such lack of communication (claimant admitted he hadn't written his need to be late on the calendar although he was asked to do so) serves to support employer's need to address the couple for their tardiness. It does not support claimant's quitting over the reprimand.

DECISION:

The decision of the representative dated August 21, 2018, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed

bab/scn