

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MAX T VAN GORP

Claimant

APPEAL NO. 11A-UI-14052-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADVENTURE LANDS OF AMERICA INC

Employer

OC: 09-11-11

Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the October 21, 2011, reference 04, decision that denied benefits. After due notice was issued, a hearing was held on November 14, 2011. The claimant did participate. The employer did participate through Tony Hall, Maintenance Manager.

ISSUE:

Did the claimant voluntary 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: The claimant was employed as a maintenance worker full time beginning April 16, 2011 through August 8, 2011 when he voluntarily quit. The claimant told the employer he was quitting to move to Marshalltown. On April 22, after less than one week on the job, the claimant was told by Mr. Hall that he was not meeting the expectations of a maintenance worker. Mr. Hall told the claimant that he could not keep him as a maintenance worker, but he did have work for him on the third shift performing different functions including primarily laundry. The claimant moved to the third shift position on April 28. The claimant accepted the job and then continued to work at it until August 8, 2011 when he quit to move to Marshalltown. The claimant performed the third shift duties primarily laundry for over three months before quitting to move to a different city.

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 § 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(2), (27) 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 § 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 § 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:

(2) The claimant moved to a different locality.

(27) The claimant left rather than perform the assigned work as instructed.

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 was told early on that his job duties and his shift would change. At that time he had the option to be discharged for not meeting expectations or to accept a job with new responsibilities and with different hours. By accepting the job and working for over three months at the new duties, the claimant acquiesced to any change in the contract of hire. He then quit working only to move to another city. Under such circumstances his leaving is without good cause attributable to the employer. 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 October 21, 2011 (reference 04) 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