

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LASHWAN G COLEMAN
Claimant

APPEAL NO. 13A-UI-11597-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

TPI IOWA LLC
Employer

OC: 09/15/13
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed an appeal from the October 7, 2013, (reference 01) unemployment insurance decision that denied benefits. After due notice was issued, a hearing was held on November 7, 2013. Claimant participated. Employer did participate through Danielle Williams, Human Resources Coordinator.

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 a general production worker beginning on April 22, 2013 through April 23, 2013 when he voluntarily quit. When he applied for the job the claimant indicated on his application that he was available to work any hours. He interviewed and was hired. The employer tells every employee that is hired what their work shift will be as the employee has to accept the shift when he is given the offer of employment. The claimant was offered the 5:00 p.m. to 5:00 a.m. shift which he accepted. All employees begin with a three-day training session that takes place during the day. The claimant attended the first two days of the training and spoke to Ms. Williams about the need for him to present two forms of picture identification in order to meet the employer's obligation to comply with federal I-9 immigration rules. Ms. Williams and the claimant specifically talked about the claimant missing the third day of training on April 23, 2013 so that he could obtain a second form of picture identification. The claimant was to return to work the next Wednesday to attend the third day of training. The claimant never returned to work for the employer. The claimant alleges that he voluntarily quit because he did not want to work the 5:00 a.m. to 5:00 p.m. shift but the record shows he was going to work overnights and accepted that shift. The claimant also alleges he quit because he does not have a driver's license and his wife had a newborn and was unable to take him to and from work. The claimant knew when he was hired the hours of work and that is was his responsibility to get himself to and from work. The claimant lived in Newton when he was employed by TPI Iowa LLC. He has since moved from Newton to Des Moines, Iowa.

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(1), (17) and (18) provide:

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:

(1) The claimant's lack of transportation to the work site unless the employer had agreed to furnish transportation.

(17) The claimant left because of lack of child care.

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

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 specifically offered a shift when he was hired and accepted that shift. He knew the hours of work at the time of hire. He knew that he would be responsible for getting himself to and from work. The fact that he and his wife have a newborn child with child care issues is not good cause attributable to the employer for leaving the employment. 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 are denied.

DECISION:

The October 7, 2013, (reference 01) decision is reversed. 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/css