

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOSHUA WELLS
Claimant

APPEAL NO: 15A-UI-07049-LDT

**ADMINISTRATIVE LAW JUDGE
DECISION**

GLEN HAVEN HOME
Employer

OC: 05/31/15
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Joshua Wells (claimant) appealed a representative's June 16, 2015 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits after a separation from employment with Glen Haven Home (employer). Hearing notices were mailed to the parties' last-known addresses of record for a telephone hearing to be held on July 27, 2015. Due to the illness of the employer's first-hand witness, the hearing was continued to and held on July 28, 2015. The claimant participated in the hearing. Serena Gorman appeared on the employer's behalf and presented testimony from one other witness, Peggy Strietbeck. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit for a good cause attributable to the employer?

OUTCOME:

Affirmed. Benefits denied.

FINDINGS OF FACT:

The claimant started working for the employer on June 8, 2014. He worked full time as a housekeeper in the employer's long-term care nursing facility. Since about February 2015 he had worked on a daytime schedule, Monday through Friday and every other weekend.

On May 11, 2015 the claimant informed his supervisor, Strietbeck, that he had been accepted into a school program to become a certified nursing aide (CAN) that would start on June 1, so he would not be able to work his regular position after May 29. He asked if he could continue to work on a part-time basis, weekends only, and had believed that this was agreeable. However, on May 19 Strietbeck informed him that she did not have a weekend only position available and that she could not allow the claimant any kind of leave of absence for the schooling program,

which lasted through June 23, because of the employer's staffing needs. As the claimant had already indicated he was going to be off on PTO (paid time off) on May 29, it was determined that his last day of work would be May 28.

REASONING AND CONCLUSIONS OF LAW:

If the claimant voluntarily quit his employment, he is not eligible for unemployment insurance benefits unless it was for good cause attributable to the employer. Iowa Code § 96.5-1. Rule 871 IAC 24.25 provides that, 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. A voluntary leaving of employment requires an intention to terminate the employment relationship and an action to carry out that intent. *Bartelt v. Employment Appeal Board*, 494 N.W.2d 684 (Iowa 1993); *Wills v. Employment Appeal Board*, 447 N.W.2d 137, 138 (Iowa 1989). The claimant did express or exhibit the intent to cease working for the employer in his regular full time position and did act to carry it out. The claimant would be disqualified for unemployment insurance benefits unless he voluntarily quit for good cause.

The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. Rule 871 IAC 24.26(3), (4). Leaving to improve oneself by going to school for a further certification is a good personal reason for leaving, but not one attributable to the employer. Rule 871 IAC 24.25(20), (26). The employer is not required to allow an employee to change the terms of his employment from full time, during the week, to part time, on weekends. The claimant has not satisfied his burden. Benefits are denied.

DECISION:

The representative's June 16, 2015 decision (reference 01) is affirmed. The claimant voluntarily left his employment without good cause attributable to the employer. As of May 28, 2015, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs