

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CURTIS B DEWEESE
Claimant

UTILISOUTH INC
Employer

APPEAL 21A-UI-06366-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 12/13/20
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

Curtis DeWeese (claimant) appealed an Iowa Workforce Development February 16, 2021, decision (reference 01) that concluded ineligibility to receive unemployment insurance benefits due to voluntarily quitting with the Utilisouth (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 26, 2021. The claimant participated personally. The employer participated by Ryan Keck, Chief Financial Officer, and Rudy Loving, Supervisor. 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 May 11, 2020, through September 25, 2020, as a full-time foreman. On September 25, 2020, the claimant returned home to Illinois from the worksite in Kansas after he suffered from anxiety issues. The supervisor and claimant discussed the claimant's return to work in October 2020. The claimant wrote the employer saying he was ready to return and the supervisor transported him from Illinois to Kansas. They arrived at about midnight on October 9, 2021. Due to the late arrival and never working on Sundays, the claimant was scheduled to start work on October 12, 2020.

At 6:12 p.m., on Saturday, October 10, 2020, the claimant sent a text to the supervisor saying he was having a hard time breathing, he was dizzy, and having chest pains. At 6:24 p.m., on October 10, 2020, he indicated his symptoms were starting. The claimant did not like sitting in the hotel room away from his family and not earning money.

At 11:24 a.m., on Sunday, October 11, 2020, the claimant texted that he had been up since 2:30 a.m. having problems. He wished he waited until he had his medication. The claimant did not want to start work and have issues, like he did before.

The supervisor asked whether the claimant wanted to return to Illinois. At 7:24 p.m., on October 11, 2020, the claimant texted that he really hated to blow it. He wanted to return to work in the spring. On October 12, 2020, the supervisor drove the claimant home to Illinois at the claimant's request. The claimant separated from work because he did not want to sit in the hotel room away from his family over the weekend. Continued work was available with the employer had the claimant not resigned.

AND CONCLUSIONS OF LAW:

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(21) provides:

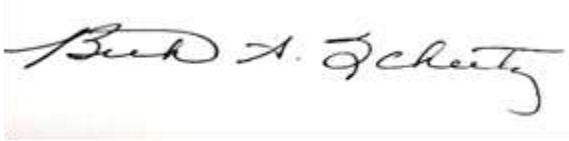
Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified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

- (21) The claimant left because of dissatisfaction with the work environment.

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 words and actions. When employees quit work because of dissatisfaction with the work environment, their leaving is without good cause attributable to the employer. The claimant left work because he did not like his work environment. Sitting in the hotel room away from his family caused him anxiety. 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 February 16, 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.

A handwritten signature in black ink, reading "Beth A. Scheetz", is positioned above a horizontal line.

Beth A. Scheetz
Administrative Law Judge

April 30, 2021
Decision Dated and Mailed

bas/ol