

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JAMES STEPHEN
Claimant

CARL A NELSON & COMPANY
Employer

APPEAL NO. 14A-UI-03322-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 02/16/14
Claimant: Appellant (1)**

Iowa Code § 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Stephen James (claimant) appealed an unemployment insurance decision dated March 17, 2014, (reference 01), which held that he was not eligible for unemployment insurance benefits because he voluntarily quit his employment with Carl A Nelson & Company (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 17, 2014. The claimant participated in the hearing. The employer participated through Mike Harris, General Supervisor; David Hunt, Safety Director; and Renita Jarrett, Payroll Supervisor. Employer's Exhibits One through Three were admitted into evidence.

ISSUE:

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The employer is a construction company who contracts out employees to work at Grain Processing Plant (GPC). The claimant was hired as a full-time Construction Craftsman, Level 19, on October 1, 2010, and earned a base rate of pay plus potential bonus pay or pay for a particular job. He was assigned to work at GPC in the maintenance department, which paid \$1.00 more per hour than project work at GPC. The claimant sustained two work-related injuries during his time at GPC and knew the proper procedures for reporting an injury.

The claimant sustained a third work-related injury on February 18, 2014, when he slipped in some spilled polymer and twisted his right ankle. The injury occurred at approximately 11:00 a.m. but he did not report it until 2:00 p.m. when he notified Brian Richards. The claimant did not go the medical clinic either during or after work. Employees must immediately report a work-related injury to both the employer and GPC so the injury can be evaluated for possible treatment. If the employee denies treatment, they need to sign something indicating their intent.

The claimant went home but called in on February 19, 2014, because his ankle was swollen. On the following day, the claimant was going to go to work but was told he had been removed from the maintenance function to projects. The claimant was given a couple days off and scheduled to return on Monday, February 24, 2014, but he was a no-call/no-show. General Superintendent Mike Harris called him and the claimant said he was going to “hang up his construction career” since he is 62 and was going to retire. Mr. Harris advised the claimant there was full-time work available but the claimant said he signed up for unemployment. Mr. Harris said they would contest benefits since full-time work was available.

REASONING AND CONCLUSIONS OF LAW:

The issue to be determined is whether the reasons for the claimant’s separation from employment qualify him to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if he voluntarily quit without good cause attributable to the employer. Iowa Code § 96.5-1.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980) and *Peck v. Employment Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant demonstrated his intent to quit when he failed to return to work after February 18, 2014. He carried out that intent on February 24, 2014, when he told General Superintendent Mike Harris that he intended to retire. The claimant quit because he was removed from one department and placed in another due to failure to follow company policy regarding how to properly report work injuries. He could not earn the extra dollar per hour in projects but was still eligible for bonuses.

It is the claimant’s burden to prove that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. He has not satisfied that burden. Benefits are denied.

DECISION:

The unemployment insurance decision dated March 17, 2014, (reference 01), is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/pjs