

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MICHAEL R EVANS
Claimant

APPEAL NO. 06A-UI-09229-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

JOHN MORRELL & COMPANY
Employer

OC: 08/20/06 R: 01
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Michael R. Evans (claimant) appealed a representative's September 12, 2006 decision (reference 02) that concluded he was not qualified to receive unemployment insurance benefits after a separation from employment from John Morrell & Company (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 2, 2006. The claimant participated in the hearing. The employer failed to respond to the hearing notice and provide a telephone number at which a witness or representative could be reached for the hearing and did not participate in the hearing. Based on the evidence, the arguments of the claimant, 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?

FINDINGS OF FACT:

The claimant started working for the employer on April 28, 1987. He worked full time as a laborer on a 5:15 a.m.-to-3:00 p.m., Monday-through-Friday schedule. His last day of work was August 16, 2006. He gave his two-week notice of quitting on or about August 2; his stated reason for quitting was that he was going to move to Dallas, Texas, with his girlfriend, who anticipated being transferred to a job at a hospital there.

The plans to move to Dallas were ultimately cancelled in late September 2006. Another reason the claimant had decided to quit in August was that he decided that if he was going to move to Dallas, he would need to find another trade and so had decided to enroll in school for another trade, so that he could later transfer to a school in Dallas. He started school at a technical college on August 23. He decided to continue his school program in Iowa even after it was decided that he and his girlfriend were not going to move to Dallas.

He further looked at switching to another trade as an opportunity to find a job he could do better, as he felt he had received injuries over the years that had taken a toll on his body and made it more difficult to do his job for the employer. However, he had no specific medical diagnosis or condition, and no doctor had ever advised him that he needed to leave his employment with the employer.

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 section 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 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. Bartelt v. Employment Appeal Board, 494 N.W.2d 684 (Iowa 1993). The claimant did express or exhibit the intent to cease working for the employer 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. Quitting in order to move to another locality is not good cause attributable to the employer. 871 IAC 24.25(2). Leaving employment in order to enroll in school is not a good cause attributable to the employer. 871 IAC 24.25(26). A quit is not for good cause attributable to the employer where an employee decides to leave employment due to medical or physical concerns but does not provide competent medical evidence showing that the condition is caused or aggravated by the employment and has not provided the employer an opportunity to provide an accommodation, or where the condition is not shown to be work-related and the employee has not been advised by a licensed and practicing physician to leave the employment until sufficiently recovered and released for work. 871 IAC 24.25(35), (36); 871 IAC 24.26(6)b. The claimant has not satisfied his burden. Benefits are denied.

DECISION:

The representative's September 12, 2006 decision (reference 02) is affirmed. The claimant voluntarily left his employment without good cause attributable to the employer. As of August 16, 2006, 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/kjw