

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ANTHONY J ABUHL
Claimant

TRI CITY ELECTRIC CO OF IOWA
Employer

APPEAL NO. 24A-UI-03011-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 02/25/24
Claimant: Appellant (1)

Iowa Code Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

On March 17, 2024, Anthony Abuhl (claimant) filed a timely appeal from the March 14, 2024 (reference 01) decision that disqualified him for benefits and that held the employer's account would not be charged for benefits, based on the deputy's conclusion the claimant voluntarily quit on February 20, 2024 without good cause attributable to the employer. After due notice was issued, a hearing was held on April 9, 2024. Claimant participated. Natalie Baysinger represented the employer. Exhibit A was received into evidence.

ISSUE:

Whether the claimant voluntarily quit without good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Anthony Abuhl (claimant) was employed by Tri City Electric Company of Iowa as a full-time journeyman wireman electrician on a jobsite in Des Moines from September 2023 until February 20, 2024, when he voluntarily quit due to dissatisfaction with the conditions of the employment. The claimant's role at the jobsite was tool manager. The claimant was tasked with making sure the electricians onsite had the tools and supplies necessary for the project. The claimant was tasked with managing equipment rentals from two equipment rental companies. The claimant had worked in a similar capacity for the employer as part of an earlier employment. The claimant knew the tool manager position would be challenging and therefore requested and obtained a General Foreman pay rate. The pay was \$45.50 per hour for the first 40 hours, 1.5 times that wage for hours exceeding 40, and double-time on Saturday shifts that exceeded eight hours. The claimant understood at the time he accepted the position that the work would involve 10-hour shifts Monday through Friday, an eight-hour shift on Saturday, for a minimum of 58 hours, and the potential need to work beyond the 58-hour weekly minimum. The claimant ended up working 61 hours a week. In keeping with the standard practice for general foreman, the claimant would come in a half hour early and would otherwise spread the extra work hours over the week.

At the time the claimant accepted the employment, he knew that he would be responsible for building the jobsite tool “crib” and that the site would become busier as the project progressed. During the earlier period of employment on a similar project, the employer had provided another journeyman wireman, a construction wireman, and sometimes a third person to assist the claimant with the tool manager duties. During the most recent period of employment, the employer balked at providing additional staff to assist the claimant with the tools manager duties. The claimant eventually learned that extra tool management help had not been included in the bid.

The claimant submitted his two-week written notice on February 6, 2024, after the employer told the claimant point-blank that the employer was not going to provide a journeyman wireman to assist the claimant with the tool manager duties. By that time, there were about 150 electrical workers on the jobsite. The employer and the local electrical trade were experiencing a severe shortage of journeyman wireman and the jobsite superintendent was unwilling to make one available to assist the claimant with tool management.

On the claimant’s last day at the end of the two-week notice period, the employer asked the claimant whether he was willing to remain on the jobsite in a different foreman or General Foreman position. A different General Foreman position would pay the same, but a regular foreman position would pay \$1.00 less per hour. If the claimant had accepted the change in duties, he would have supervised other electricians and/or worked directly on wiring projects. The work hours in the proposed new duties would have been the same 58 hours per week. The claimant declined to accept a different position and elected to separate from the employment instead.

REASONING 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.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 698, 612 (Iowa 1980) and *Peck v. EAB*, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See Iowa Admin. Code r. 87124.26(4). The test is whether a reasonable person would have quit under the circumstances. See *Aalbers v. Iowa Department of Job Service*, 431 N.W.2d 330 (Iowa 1988) and *O'Brien v. Employment Appeal Bd.*, 494 N.W.2d 660 (1993). Aside from quits based on medical reasons, prior notification of the employer before a resignation for intolerable or detrimental working conditions is not required. See *Hy-Vee v. EAB*, 710 N.W.2d 1 (Iowa 2005).

Iowa Admin. Code r. 871-24.26(1) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(1) A change in the contract of hire. An employer's willful breach of contract of hire shall not be a disqualifiable issue. This would include any change that would jeopardize the worker's safety, health or morals. The change of contract of hire must be substantial in nature and could involve changes in working hours, shifts, remuneration, location of employment, drastic modification in type of work, etc. Minor changes in a worker's routine on the job would not constitute a change of contract of hire.

"Change in the contract of hire" means a substantial change in the terms or conditions of employment. See *Wiese v. Iowa Dept. of Job Service*, 389 N.W.2d 676, 679 (Iowa 1986). Generally, a substantial reduction in hours or pay will give an employee good cause for quitting. See *Dehmel v. Employment Appeal Board*, 433 N.W.2d 700 (Iowa 1988). In analyzing such cases, the Iowa Courts look at the impact on the claimant, rather than the employer's motivation. *Id.* An employee acquiesces in a change in the conditions of employment if he or she does not resign in a timely manner. See *Olson v. Employment Appeal Board*, 460 N.W.2d 865 (Iowa Ct. App. 1990).

The weight of the evidence in the record establishes a February 20, 2024 voluntary quit without good cause attributable to the employer. The evidence fails to establish either a substantial change in the contract of hire or intolerable and/or detrimental working conditions that would have prompted a reasonable person to leave the employment. As the claimant expected going into the employment, the tool manager position was challenging. With that in mind, the claimant requested and received a pay premium at the General Foreman pay rate. As expected, the jobsite became busier, but the evidence fails to establish an unreasonably burdensome workload. The claimant was able to perform the work duties by adding just three hours a week over the 58-hour minimum. Prior to the claimant's voluntary separation from the employment, the employer offered to move the claimant to a potentially less challenging comparable position on the jobsite, but the claimant declined. The claimant's decision to leave the employment due to dissatisfaction with the conditions of the employment was without good cause attributable to the employer. The claimant is disqualified for benefits until the claimant has worked in and been paid wages for insured work equal to 10 times the claimant's weekly benefit amount. The claimant must meet all other eligibility requirements. The employer's account shall not be charged for benefits.

DECISION:

The March 14, 2024 (reference 01) decision is AFFIRMED. The claimant voluntarily quit the employment on February 20, 2024 without good cause attributable to the employer. The claimant is disqualified for benefits until the claimant has worked in and been paid wages for insured work equal to 10 times the claimant's weekly benefit amount. The claimant must meet all other eligibility requirements. The employer's account shall not be charged.

A handwritten signature in black ink that reads "James E. Timberland". The signature is written in a cursive, flowing style.

James E. Timberland
Administrative Law Judge

April 22, 2024
Decision Dated and Mailed

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APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board
6200 Park Ave Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board
6200 Park Ave Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
Online: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que está en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.