

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JOHN J CONRAD Claimant WHIRLPOOL CORPORATION Employer	68-0157 (9-06) - 3091078 - EI APPEAL NO: 18A-UI-05134-JTT ADMINISTRATIVE LAW JUDGE DECISION OC: 04/01/18 Claimant: Appellant (1)
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Iowa Code Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

John Conrad filed an appeal from the April 27, 2018, reference 04, decision that disqualified him for benefits and that relieved the employer's account of liability for benefits, based on the Benefits Bureau deputy's conclusion that Mr. Conrad voluntarily quit on January 31, 2018 without good cause attributable to the employer. After due notice was issued, a hearing was held on May 21, 2018. Mr. Conrad participated. The employer did not respond to the hearing notice instructions to register a telephone number for the hearing and did not participate. The hearing in this matter was consolidated with the hearing in Appeal Number 18A-UI-05135-JTT. Exhibit A was received into evidence. The administrative law judge took official notice of the Agency's administrative record of benefits disbursed to Mr. Conrad.

ISSUE:

Whether Mr. Conrad separated from the employment for a reason that disqualifies him for unemployment insurance benefits or that relieves the employer's account of liability for benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: John Conrad was employed by Whirlpool Corporation from 1978 until January 31, 2018. For the last 24 years of the employment, Mr. Conrad was a full-time Master Technician. In December 2017, Mr. Conrad received an email message from Whirlpool Corporation that referenced the company's goal of reducing its workforce and the company's desire to work toward its goal by offering a voluntary retirement program to those employees whose years of service plus age equaled 86. The employer's email notified Mr. Conrad that he was eligible to participate in the voluntary retirement program. Mr. Conrad elected to participate in the voluntary retirement program and to voluntarily separate from the employment in exchange for a proposed substantial lump-sum payment that was based on his salary and years of service. The employer had not notified Mr. Conrad that the employer planned to end Mr. Conrad's employment. However, Mr. Conrad was concerned that if he did not participate in the voluntary retirement program, there was a chance that the employer might end his employment at some future date without such compensation. The effective quit date was January 31, 2018.

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.

Iowa Admin. Code r. 871-24.25(24) 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:

(24) The claimant left employment to accept retirement when such claimant could have continued working.

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).

The evidence in the record established a voluntary quit without good cause attributable to the employer. The evidence establishes that Mr. Conrad voluntarily separated from the employment effective January 31, 2018 pursuant to his election to participate in the employer's retirement incentive program and the agreement he entered into with the employer. The weight of the evidence establishes that Mr. Conrad could have elected to forego participation in the retirement incentive program and continued in the employment for the foreseeable future. Pursuant to the applicable law, Mr. Conrad is disqualified for benefits until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount. Mr. Conrad must meet all other eligibility requirements. The employer's account shall not be charged.

DECISION:

The April 27, 2018, reference 04, decision is affirmed. The claimant voluntarily quit the employment effective January 31, 2018 without good cause attributable to the employer. The claimant is disqualified for benefits until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount. The claimant must meet all other eligibility requirements. The employer's account shall not be charged.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

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