

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RANDALL L TURNBAUGH
Claimant

APPEAL NO. 06A-UI-10658-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

MATRIX METALS
Employer

**OC: 01/01/06 R: 04
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit
Section 96.4-3 – Able and Available for Work

STATEMENT OF THE CASE:

Randall Turnbaugh (claimant) appealed a representative's October 30, 2006 decision (reference 01) that concluded he was not eligible to receive unemployment insurance benefits because he had voluntarily quit employment with Matrix Metals (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 15, 2006. The claimant participated personally. The employer participated by Linda Leffler, Human Resources Assistant.

ISSUE:

The issue is whether the claimant voluntarily quit work without good cause attributable to the employer and whether he is able and available for work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant was hired on September 26, 2006 as a full-time finisher. The claimant was driving with a revoked drivers' license when he was arrested on September 30, 2006. The claimant quit work because he had no transportation. Continued work was available had the claimant not resigned.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily quit work without 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(1) 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:

(1) The claimant's lack of transportation to the work site unless the employer had agreed to furnish transportation.

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 his actions. He stopped appearing for work. When an employee quits work because of lack of transportation, his leaving is without good cause attributable to the employer. The claimant left work because he did not have transportation to work. His leaving was without good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

The next issue is whether the claimant was able and available for work. For the following reasons, the administrative law judge concludes he is not.

871 IAC 24.23(4) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(4) If the means of transportation by an individual was lost from the individual's residence to the area of the individual's usual employment, the individual will be deemed not to have met the availability requirements of the law. However, an individual shall not be disqualified for restricting employability to the area of usual employment. (See subrule 24.24(7)).

The claimant's means of transportation was lost because he could no longer drive to work. When a claimant has no means of transportation to employment, the claimant is deemed to be unavailable for work. The claimant is disqualified from receiving unemployment insurance benefits because he is not available for work with another employer.

DECISION:

The representative's October 30, 2006 decision (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. In addition, the claimant is disqualified from receiving unemployment insurance benefits because he is not available for work.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/kjw