

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**ERIK M TRASK**  
Claimant

**BILL LANE CONSTRUCTION INC**  
Employer

**APPEAL NO. 18A-UI-09179-B2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 08/05/18**  
**Claimant: Appellant (1)**

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Iowa Code § 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated August 22, 2018, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on September 20, 2018. Claimant participated. Employer participated by Bill Lane. Claimant's Exhibits A-B were admitted into evidence.

**ISSUE:**

The issue in this matter is whether claimant quit for good cause attributable to employer.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on June 11, 2018. Claimant voluntarily quit on June 26, 2018 such that he could enter into an in-patient alcohol treatment facility in Florida.

Claimant worked as a laborer for employer's construction company. Claimant had a history of quitting his employment on multiple occasions throughout 10+ years of working for employer. Claimant was recently rehired on February of 2017. In June, claimant was gone most all of the days battling his alcoholism and attending an extended funeral. Claimant returned to work on June 26, 2018 to tell employer that he was headed off to treatment on that day and would need to quit such that he could access his 401k money.

Claimant stated that he went into work on June 26, 2018 to alert employer that he was headed off to treatment and employer terminated his employment. Only then did claimant mention a desire to access his 401k money.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code § 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.

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because he was headed off to in-patient treatment in Florida and wanted to access his 401k monies.

It is the duty of the administrative law judge as the trier of fact in this case, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa Ct. App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *State v. Holtz*, Id. In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other believable evidence; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *State v. Holtz*, Id. In accessing credibility in this matter, the administrative law judge looks to employer's rehiring claimant on multiple other occasions after claimant quits, and also at claimant's previous quitting and accessing his 401k money. Additionally, claimant was in the midst of substance abuse such that he was headed off to in-patient treatment. The administrative law judge finds employer's remembrance of the circumstances surrounding the job separation to be far more credible than claimant's version of events. As such, claimant is looked to have quit his job, and not been terminated.

Ordinarily "good cause" is derived from the facts of each case keeping in mind the public policy stated in Iowa Code Section 96.2. *O'Brien v. EAB* 494 N.W.2d 660, 662 (Iowa 1993) (citing *Wiese v. IA Dept. of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986)). "The term encompasses real circumstances, adequate excuses that will bear the test of reason, just grounds for the action, and always the test of good faith." *Wiese v. IA Dept. of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986). "Common sense and prudence must be exercised in evaluating all of the circumstances that led to an employee's quit in order to attribute the cause for the termination." *Id.* In this matter, claimant's quit was brought about by his alcoholism, and not by any action of employer who had been willing to rehire claimant after many previous quits. Said quit is not with good cause attributable to employer. Benefits are denied.

**DECISION:**

The decision of the representative dated August 22, 2018, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

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Blair A. Bennett  
Administrative Law Judge

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Decision Dated and Mailed

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