

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MICHAEL MEISTER
Claimant

APPEAL NO. 09A-UI-17529-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

IES COMMERCIAL INC
Employer

**Original Claim: 10/11/09
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed an appeal from a representative's decision dated November 10, 2009, reference 01, which held the claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on December 30, 2009. The claimant participated. The employer participated by John Greiner, project manager. The record consists of the testimony of Michael Meister and John Greiner.

ISSUE:

Whether the claimant voluntarily left for good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The employer is an electrical contractor. The claimant worked as a job foreman, essentially in charge of the electrical jobs that needed to be done on a project site. The claimant's last day of work was on June 16, 2009. He had previously given two weeks' notice that he was quitting. The employer honored the two-week notice. Work was available for the claimant at the time he quit his job.

Although a number of factors were involved in the claimant's decision to quit his job, the most important occurred when the claimant was removed from a job at the request of the general contractor. The claimant and an employee of a general contractor, named Dan, had had a difficult working relationship and there had been a number of arguments between the two of them. The general contractor asked that the claimant be removed from the job and the employer complied with that request. The claimant wanted it to be known that he was being removed from the job due to political reasons and not for his job performance. He did not feel that the employer ever explained the circumstances to his crew and, as a result, his thirty years of experience in the trade and his reputation were damaged.

The claimant also was denied the use of a company vehicle because he had too many points on his driving record. He did not feel that he was treated fairly in this instance because some of his violations were for things such as registration and seat belt use. He was also given two days off for a safety violation. Another member of management had instructed the claimant to set a generator with a particular piece of equipment. The generator tipped over during installation and the claimant was charged with failing to insure that the operator of the equipment was qualified. The claimant did not feel this suspension was his fault, since he had done what he had been told by management.

No physician advised the claimant to quit his job. He felt he was stressed out and that continuing to work was not good for his health.

REASONING AND CONCLUSIONS OF LAW:

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(21) 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:

(21) The claimant left because of dissatisfaction with the work environment.

A quit is a separation initiated by the employee. 871 IAC 24.1(113)(b). 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.

The evidence in this case showed that the claimant intended to sever the employment relationship and did so by giving a two-week notice to his employer and then quitting his job. The claimant decided to quit because he had "had enough" and felt, to use his words, "burned out." The claimant was unhappy over the way he had been treated by the employer. Although there were a number of instances that led to his resignation, the most significant seems to be the employer's decision to remove him from a job site at the request of the general contractor. The claimant felt that an explanation should have been given to his crew on his removal so that his reputation would not have been damaged. John Greiner, the project manager, testified that he thought most of the people on this job site knew the reason that the claimant was being removed.

The administrative law judge understands the claimant's feelings over being removed from the job site and why he would want his co-workers and other members of the trades to know that it was due to something other than his competence as an electrical job foreman. The claimant was experiencing job stress accompanied by physical symptoms. He had good personal reasons for quitting his job. However compelling these reasons were, however, they do not constitute good cause attributable to the employer. Accordingly, benefits are denied.

DECISION:

The representative's decision dated November 10, 2009, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until 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.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/kjw