

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**FAIREN L EVERETT**  
Claimant

**ENVIRONMENTAL LAND MANAGEMENT  
LLC**  
Employer

**APPEAL 17A-UI-06868-NM-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 05/28/17**  
**Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quitting  
Iowa Admin. Code r. 871-24.25(21) – Dissatisfaction with Work Environment

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the June 29, 2017, (reference 02) unemployment insurance decision that denied benefits based upon his voluntary quit. The parties were properly notified of the hearing. A telephone hearing was held on July 25, 2017. The claimant participated and testified. The employer participated through owner/manager David Klema.

**ISSUE:**

Did claimant voluntarily quit the employment with good cause attributable to employer?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time as a driver from November 2016, until this employment ended on May 4, 2017, when he voluntarily quit.

On May 4, 2017, there was an incident at claimant's job site where someone backed a truck into another vehicle. Claimant's coworker, Mark Green, blamed him for the incident, but claimant was not even there when it occurred. According to claimant Green told him to leave and that he was done. Green was another driver and did not have hiring or firing authority. Following this exchange claimant called Klema and informed him Green was blaming him for the accident. Klema told claimant there was nothing he could do about that. Claimant then told Klema he was tired of Green's abuse, could not take it anymore, and was done. During the hearing claimant explained that Green would regularly yell and scream at him, call him names, and one time got angry enough to punch the door of the vehicle claimant was driving. Claimant testified he had not previously reported this behavior to Klema. Klema testified claimant and Green had been childhood friends and he was previously unaware of any problems between the two. Klema testified had claimant not resigned, work would have continued to be available to him.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was 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.

Iowa Admin. Code r. 871-24.25 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.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973). 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).

Here, claimant resigned due to the way he was being treated by one of his coworkers. Claimant had not reported this negative treatment prior to quitting and Klema was unaware of what was going on. While a claimant does not have to specifically indicate or announce an intention to quit if his concerns are not addressed by the employer, for a reason for a quit to be "attributable to the employer," a claimant faced with working conditions that he considers intolerable, unlawful or unsafe must normally take the reasonable step of notifying the employer about the unacceptable condition in order to give the employer reasonable opportunity to address his concerns. *Hy-Vee Inc. v. Employment Appeal Board*, 710 N.W.2d 1 (Iowa 2005); *Swanson v. Employment Appeal Board*, 554 N.W.2d 294 (Iowa 1996); *Cobb v. Employment Appeal Board*, 506 N.W.2d 445 (Iowa 1993). If the employer subsequently fails to take effective action to address or resolve the problem it then has made the cause for quitting "attributable to the employer." Claimant resigned at the same time he notified the employer of the problem and prior to giving the employer any reasonable opportunity to resolve it. While claimant's leaving may have been based upon good personal reasons, it was not for a good-cause reason attributable to the employer according to Iowa law. Benefits are denied.

**DECISION:**

The June 29, 2017, (reference 02) unemployment insurance decision is affirmed. The claimant voluntarily left his employment without good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Nicole Merrill  
Administrative Law Judge

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Decision Dated and Mailed

nm/rvs