

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOHNNY KINSEY
Claimant

APPEAL NO: 16A-UI-08160-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

EYM KING OF IOWA LLC
Employer

OC: 07/03/16
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the July 22, 2016, reference 01, decision that denied benefits. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on August 11, 2016. The claimant participated in the hearing. Ray Alehy, Director of Operations for the State of Iowa Burger King stores, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant voluntarily left his employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time opening breakfast crew member for EYM King of Iowa (Burger King) from March 26, 2016 to June 25, 2016. He informed the employer June 20, 2016, he was leaving his employment effective June 25, 2016, to move to Milwaukee with his wife to care for her mother who was diagnosed with the first stage of dementia and required round the clock care. There were no other members of the claimant's wife's family who could care for the claimant's mother-in-law. The claimant was a very good and reliable employee and the employee was sorry to see her leave but understanding the circumstances. Continuing work was available for the claimant had he not been forced to move.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left employment without good cause attributable to the employer.

Iowa Code § 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(20) and (22) 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:

(20) The claimant left for compelling personal reasons; however, the period of absence exceeded ten working days.

(22) The claimant left because of a personality conflict with the supervisor.

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. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2.

In this case, the claimant effectively had no choice but to accompany his wife to Milwaukee and help her care for her ailing mother because none of her family members were able to do so. The claimant was a good employee and the employer appreciated his contributions to the business but understood the circumstances that forced him to leave his job. Unfortunately, while the administrative law judge is very sympathetic to the claimant's plight, his period of absence exceeded ten working days so he is not eligible for unemployment benefits under 871 IAC 24.25(20). Additionally, although he had to move out of state with his wife due to family responsibilities and serious family needs that is not considered a good cause reason for leaving his employment attributable to the employer. 871 IAC 24.25(23). (Emphasis added). In order for a claimant to receive unemployment benefits when he voluntarily leaves his employment, the reason for leaving must be attributable to the employer – something the employer did or did not do which falls under one of the exceptions to the voluntary leaving code sections, which caused the claimant to quit his job. In this case, the claimant left his employment to move to Milwaukee with his wife due to serious family needs, which was not the fault of the employer. Consequently, the claimant is not eligible to receive unemployment insurance benefits.

DECISION:

The July 22, 2016, reference 01, 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.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs