

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**JASON T BOESEN**  
Claimant

**IA NT GUARD/TAG-IA**  
Employer

**APPEAL 17A-UCFE-00011-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 01/15/17**  
**Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Leaving

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the February 15, 2017, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on March 22, 2017. Claimant participated. Employer did not participate. Claimant's Exhibit A was entered and received into the record.

**ISSUE:**

Did the claimant voluntarily quit his employment without good cause attributable to the 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 security supervisor beginning on November 1, 2015 through December 16, 2016 when he voluntarily quit. The claimant turned in his voluntary resignation on December 16 because he believed his employer was going to discharge him on December 19. He was not required to resign.

The claimant had been on leave since September 20. He was off work due to sleep insomnia and sleep apnea issues. He was granted FMLA by his employer. He was also given additional unpaid leave time by his employer. In November, the employer notified him that he would be discharged, but the claimant was able to supply another doctor's note that kept him off work longer. The claimant's doctor was unwilling to write him any additional notes to keep him off work any longer after December 2. The claimant chose to voluntarily quit prior to his discharge. He was never told he had to quit, he simply chose to do so. If the claimant had been able to provide a doctor's note keeping him off work longer, his employer would have kept him employed.

The claimant alleges that he was yelled at by a senior officer in October or November. He continued to work after that time. The claimant did not quit because the senior officer yelled at him a month earlier, but because he had run out of leave and thought the employer was going

to discharge him. The claimant voluntarily chose to resign and his employer accepted his resignation.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the 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(37) 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:

(37) The claimant will be considered to have left employment voluntarily when such claimant gave the employer notice of an intention to resign and the employer accepted such resignation. This rule shall also apply to the claimant who was employed by an educational institution who has declined or refused to accept a new contract or reasonable assurance of work for a successive academic term or year and the offer of work was within the purview of the individual's training and experience.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). 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 employer's letter makes clear that claimant could have kept his employment by providing a doctor's note to keep him off work longer. The claimant's doctor would not grant him additional leave, thus the claimant simply chose to voluntarily resign rather than wait to be discharged. Under these circumstances, the claimant's decision to quit may have been based upon good personal reasons it was not a good-cause reason attributable to the employer for leaving the employment. Benefits must be denied.

### **DECISION:**

The February 15, 2017, (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.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

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