

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**PATRICK M O'DONNELL**  
Claimant

**EATON CORPORATION**  
Employer

**APPEAL 16A-UI-11955-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 11/29/15  
Claimant: Respondent (2)**

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Iowa Code § 96.5(1) – Voluntary Leaving

**STATEMENT OF THE CASE:**

The employer filed an appeal from the October 27, 2016, (reference 02) unemployment insurance decision that allowed benefits. The parties were properly notified about the hearing. A telephone hearing was held on November 30, 2016. Claimant participated. Employer participated through Tracy Jefferson, Human Resources Manager.

**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 beginning on June 1, 1983 through September 30, 2016 when he opted to voluntarily quit to take advantage of a buyout program offered by the employer. It was up to the claimant to decide whether he wanted to voluntarily resign or not. If the claimant had opted not to resign, the employer had continued work available for him. The decision to resign was the claimant's.

**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(24) 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:

(24) The claimant left employment to accept retirement when such claimant could have continued working.

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 claimant chose to resign in order to take advantage of a buyout program the employer offered. Under these circumstances his leaving cannot be found to be with good cause attributable to the employer. While 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.

The claimant has not claimed or received any unemployment insurance benefits since his separation from this employer, thus, the issue of any overpayment of unemployment insurance benefits is moot.

**DECISION:**

The October 27, 2016, (reference 02) decision is reversed. 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. Inasmuch as no benefits were claimed or paid, no overpayment applies.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

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