

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KABBA WILLIAMS

Claimant

APPEAL NO: 16A-UI-05828-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

THE EASTER SEAL SOCIETY OF IA INC

Employer

OC: 05/01/16

Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the May 20, 2016, reference 01, decision that denied benefits. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on June 10, 2016. The claimant participated in the hearing. Sara Hardy, Human Resources Generalist, 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 direct support professional for The Easter Seal Society of Iowa from January 22, 2016 to April 29, 2016. He submitted his resignation notice April 18, 2016, with an effective date of April 29, 2016.

The claimant is from Sierra Leone and consequently is required to have a work authorization permit in order to be legally employed in the United States. The claimant sent his application renewal paperwork in at the end of February or the beginning of March 2016 but has not yet received his permit. When it became apparent to the claimant he was not going to receive his work permit by April 29, 2016, he gave the employer his two-week resignation notice but did not explain why he was leaving. He is hoping to have his work permit by the end of June 2016.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his 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.

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.

The claimant left his employment because his work authorization permit was set to expire April 29, 2016, and he did not want to violate the law by working without a valid permit. While the claimant had good personal reasons for leaving his employment, his leaving was not attributable to the employer as required by Iowa law. (emphasis added). In order for a claimant who voluntarily resigns his position with an employer to be eligible for unemployment benefits, he must leave due to specific actions or inactions taken by the employer. In this case, the claimant's leaving was due to the fact he did not have his work authorization permit, not because of anything the employer did or did not do. Consequently, the claimant has not met his burden of proving his leaving was for good cause attributable to the employer. Therefore, benefits must be denied.

Additionally, even if the claimant's separation from employment was not disqualifying, he would still be disqualified from receiving unemployment benefits because without the work authorization permit he is not considered able and available for work within the meaning of the law. While the claimant is anxious to return to the workforce once he receives his work permit, the fact that he does not have his work permit yet makes him unemployable.

DECISION:

The May 20, 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