

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JOHN V GAVARRETE
Claimant

RED ROBIN INTERNATIONAL INC
Employer

APPEAL 15A-UI-03731-H2T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/08/15
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed an appeal from the March 20, 2015, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on April 21, 2015. Claimant participated. Employer did not participate.

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 part-time as a heart of house cook beginning on November 6, 2014 through February 22, 2015 when he voluntarily quit. When he was hired the claimant was told that there were opportunities for promotion at the company. He was never promised any particular pay raise, or that he would be trained as an assistant kitchen manager. He was told that if he proved himself as an employee he might be given additional opportunities. The claimant had missed three weeks of work during the month of January and the employer told him he needed to establish a good attendance record for six months before they would consider advancing him or offering him additional training or responsibilities. The claimant was not promised anything that he was not given.

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(13), (21) 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 § 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 § 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:

(13) The claimant left because of dissatisfaction with the wages but knew the rate of pay when hired.

(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). 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).

During the claimant's short period of employment he was not given any promotion or advancement. Being promised an opportunity to advance is not the same as being promised the promotion. Under these circumstances the administrative law judge cannot conclude that the claimant's decision to quit, while based upon good personal reasons was a good-cause reason attributable to the employer for leaving the employment. Benefits must be denied.

DECISION:

The March 20, 2015 (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.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/pjs