

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROBERT L WILSON
Claimant

APPEAL NO. 11A-UI-14255-N

**ADMINISTRATIVE LAW JUDGE
DECISION**

PANAMA TRANSFER INC
Employer

**OC: 10/02/11
Claimant: Respondent (1)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Panama Transfer, Inc. filed a timely appeal from a fact-finder's decision dated October 20, 2011, reference 01, which held claimant eligible to receive unemployment insurance benefits. After due notice, a hearing was held in Council Bluffs, Iowa on January 12, 2012. Mr. Wilson participated personally. The employer participated by Mr. B.J. Bruck and Mr. Keith Richards.

ISSUE:

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

FINDINGS OF FACT:

Having considered all of the evidence in the record, the administrative law judge finds: Robert Wilson was employed by Panama Transfer, Inc. for approximately two years before voluntarily leaving his employment on October 3, 2011 without advanced notice. Mr. Wilson was employed as a full-time mechanic and was paid by the hour. His immediate supervisor was Don Sontaug.

Mr. Wilson left his employment on October 3, 2011 when he was again confronted by his immediate supervisor, Mr. Sontaug, who made disparaging and inappropriate comments to and about the claimant.

The company was aware of the ongoing conduct of Mr. Sontaug and Mr. Wilson's dissatisfaction with the ongoing derogatory comments and innuendos. Upon leaving, Mr. Wilson stated that he was "not being paid enough," in apparent reference to his endurance for the conduct of his immediate supervisor.

The employer was aware of the claimant's immediate supervisor's ongoing conduct and although the employer had counseled Mr. Sontaug about his conduct and its effect upon employees, the conduct had generally continued. The employer described Mr. Sontaug's conduct as a "unique management style."

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant voluntarily left employment with 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.

871 IAC 24.26(4) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(4) The claimant left due to intolerable or detrimental working conditions.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). An individual who voluntarily leaves their employment must first give notice to the employer of the reasons for quitting in order to give the employer an opportunity to address or resolve the complaint. Cobb v. Employment Appeal Board, 506 N.W.2d 445 (Iowa 1993). A claimant is not required to give notice of intention to quit due to intolerable, detrimental or unsafe working environments if the employer had or should have had knowledge of the conditions.

In this matter the evidence establishes that the employer had been placed on notice on many occasions that the statements and the demeanor of a supervisor in question were derogatory and demeaning to individuals under his supervision and that the employees had repeatedly reacted in a negative way to Mr. Sontaug's comments. Although the employer had acted reasonably in speaking to the supervisor, the employer was nonetheless aware that the supervisor continued to conduct himself essentially in the same manner. The employer thus had reasonable knowledge of the work conditions that caused Mr. Wilson to leave his employment. The evidence also shows that Mr. Wilson had brought the matter to the attention of management himself. The administrative law judge concludes that the supervisor's demeaning statements were not confined just to early morning hours although Mr. Sontaug may have had a propensity to be more aggressive in his comments when other management individuals were not present.

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See 871 IAC 24.26(4). The test is whether a reasonable person would have quit under these circumstances. See Aalbers v. Iowa Department of Job Service, 431 N.W.2d 330 (Iowa 1988) and O'Brien v. Employment Appeal Board, 494 N.W.2d 660 (Iowa 1993). The administrative law judge concludes based upon the totality of the evidence in the record that the claimant was reasonable in his decision to leave employment. Unemployment insurance benefits are allowed, provided the claimant meets all other eligibility requirements of Iowa law.

DECISION:

The representative's decision dated October 20, 2011, reference 01, is affirmed. Claimant quit employment with good cause attributable to the employer. Unemployment insurance benefits are allowed, provided the claimant is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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