

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**EDWARD E ZEHR**  
Claimant

**PER MAR SECURITY & RESEARCH CORP**  
Employer

**APPEAL 18A-UI-04895-LJ**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/25/18**  
**Claimant: Appellant (1)**

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Iowa Code § 96.5(1) – Voluntary Quitting

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the April 19, 2018 (reference 01) unemployment insurance decision that denied benefits based upon a determination that claimant quit rather than perform assigned work. The parties were properly notified of the hearing. An in-person hearing was held in Cedar Rapids, Iowa, on May 8, 2018. The claimant, Edward E. Zehr, participated. The employer, Per Mar Security and Research Corporation, participated through Justin Ellyson.

**ISSUE:**

Did claimant voluntarily quit the employment with good cause attributable to employer?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed part-time, most recently as a security guard, from January 28, 2017, until February 14, 2018, when he quit. On February 12, 2018, claimant began an assignment at PMX in Cedar Rapids. Claimant reported to work on February 12 and 13. Claimant disliked the trainer who was orienting him to the job. On February 14, claimant did not go to work or call in for his scheduled shift. When Ellyson called him, claimant reported that he was not comfortable with the assignment. Claimant did not ask for another assignment or explain that he had issues with the person who was training him. Continued work was available, had claimant not quit his assignment.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant's separation was without good cause attributable to the employer. Benefits are withheld.

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 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: ...

(6) The claimant left as a result of an inability to work with other employees.

Iowa unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code §§ 96.5(1) and 96.5(2)a. The burden of proof rests with the employer to show that the claimant voluntarily left his employment. *Irving v. Empl. App. Bd.*, 15-0104, 2016 WL 3125854, (Iowa June 3, 2016). A voluntary quitting of employment requires that an employee exercise a voluntary choice between remaining employed or terminating the employment relationship. *Wills v. Emp't Appeal Bd.*, 447 N.W.2d 137, 138 (Iowa 1989); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438, 440 (Iowa Ct. App. 1992). It 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). Here, claimant failed to show up for work and then told the employer he was not comfortable with his job. Claimant's statement to the employer shows intent to end his employment. Claimant did not ask for any other work or contact the employer at any later date to show that he believed he was still employed by this employer.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973). Here, claimant ended his employment because he disliked the person who was training him. The average employee in claimant's situation would not have felt similarly compelled to quit under these circumstances. Claimant has not met the burden of proving he left his employment with good cause attributable to the employer. Benefits are withheld.

**DECISION:**

The April 19, 2018 (reference 01) unemployment insurance decision is affirmed. Claimant separated from 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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Elizabeth A. Johnson  
Administrative Law Judge

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Decision Dated and Mailed

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