

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**DEMILO ROBERTS**  
Claimant

**BRAD DEERY MOTORS**  
Employer

**APPEAL 19A-UI-05937-S1-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 06/16/19**  
**Claimant: Appellant (1)**

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Iowa Code § 96.5-1 - Voluntary Quit

**STATEMENT OF THE CASE:**

Demilo Roberts (claimant) appealed a representative's July 22, 2019, decision (reference 04) that concluded ineligibility to receive unemployment insurance benefits because the claimant had voluntarily quit employment with Brad Deery Motors (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 19, 2019. The claimant participated personally. The employer was represented by Audria Gale, Hearings Representative, and participated by Erica Williams, Detail Manager. The claimant offered and Exhibit A was received into evidence.

**ISSUE:**

The issue is whether the claimant was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on November 7, 2018, as a full-time detailer. On May 13, 2019, the claimant told his manager that he would have to quit work as of May 31, 2019, because he did not have childcare for his five children while his wife worked full-time hours. Continued work was available for the claimant had he not quit.

From May 13 to May 31, 2019, the claimant and the manager thought about the claimant starting a new job working on the wash truck. It was a part-time early morning job starting at 7:00 a.m. The claimant told the manager he would provide his wife's schedule. The manager said she would see if it worked.

On June 3 and 9, 2019, the claimant provided his wife's schedule and the employer saw that the claimant's wife worked early four days each week. The claimant did not provide a schedule for the week of June 17, 2019. On June 24, 2019, the claimant's wife worked early morning hours four days. On July 1, 2019, the manager told the claimant she could not work with his wife's

hours because the wash truck operates in the morning hours. She texted, "And when you quit, I did mention the wash truck being a possibility but with it only being ran in the mornings, I just don't think it would work".

### **REASONING AND CONCLUSIONS OF LAW:**

For the following reasons the administrative law judge finds the claimant voluntarily quit work without good cause attributable to the employer and is not eligible to receive unemployment insurance benefits.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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(17) 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:

(17) The claimant left because of lack of child care.

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's intention to voluntarily leave work was evidenced by the claimant's words and actions. The claimant told the employer that he was leaving on May 31, 2019, to take care of his children and quit work. When an employee quits work to take care of children, the leaving is without good cause attributable to the employer. The claimant left work to take care of his children. His leaving was without good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied. The subsequent discussion of a new job from the employer does not affect the outcome.

**DECISION:**

The representative's July 22, 2019, decision (reference 04) is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount provided the claimant is otherwise eligible.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

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