

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DARREN D WHITE**

Claimant

**APPEAL NO: 13A-UI-04739-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**PROGRESSIVE PROCESSING**

Employer

**OC: 03/31/13**

**Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quit

**PROCEDURAL STATEMENT OF THE CASE:**

The claimant appealed a representative's April 17, 2013 determination (reference 01) that disqualified him from receiving benefits and held the employer's account exempt from charge because he voluntarily quit his employment for reasons that do not qualify him to receive benefits. The claimant participated in the hearing. Mary Tauger, Kali Temperley and Ryan Gaynor appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

**ISSUE:**

Did the claimant voluntarily quit his employment for reasons that qualify him to receive benefits?

**FINDINGS OF FACT:**

The claimant started working for the employer through a temporary employment firm on November 26, 2012. The claimant worked third shift as a sanitation associate. On January 28, 2013, the claimant accepted the employer's offer to work as full-time employee on third shift. Third shift is 12:30 a.m. to 8:00 or 8:30 a.m. The claimant's first day of work as the employer's employee was February 11, 2013. The claimant did not let the employer know he had a driving restriction or was not supposed to drive at night when he started as a temporary employee or when the employer offered him a full-time position in late January 2013.

On March 13, 2013, the claimant gave the employer his resignation notice. The claimant resigned because his driving restriction prohibits him from driving at night or when headlights are used. Since the claimant worked for the employer, he either rode to work with someone else or drove illegally at night. The claimant informed the employer his last day work would be March 28, unless he was able to get a day-shift job.

After the claimant accepted employment, he applied for day-shift jobs. He did not obtain a day shift. It may take an employee 18 months to 2 years before they can transfer to a day-shift job that many employees try to get. The claimant's last day of work was March 28, 2013.

**REASONING AND CONCLUSIONS OF LAW:**

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer. Iowa Code § 96.5(1). When a claimant quits, he has the burden to establish he quit for reasons that qualify him to receive benefits. Iowa Code § 96.6(2).

The law presumes a claimant voluntarily quits without good cause when he leaves because he does not like the shift he works. 871 IAC 24.25(18). The evidence established the claimant accepted the employer's third-shift job knowing he was restricted from driving at night. The evidence suggests the claimant accepted the third-shift job in the hope he could transfer to a day-shift job shortly after he accepted employment. Unfortunately, the employer has a posting policy and employees with seniority receive preference. Also, new employees have to work six months before they can transfer to a comparable position.

The claimant established personal reasons for quitting, but he did not establish he quit for good cause attributable to the employer. As of March 31, 2013, the claimant is not qualified to receive benefits.

**DECISION:**

The representative's April 17, 2013 determination (reference 01) is affirmed. The claimant voluntarily quit his employment for reasons that do not qualify him to receive benefits. As of March 31, 2013, the claimant is disqualified from receiving unemployment insurance benefits. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/css