

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MATTHEW J WILKINSON
Claimant

APPEAL NO. 16A-UI-12727-TNT

**ADMINISTRATIVE LAW JUDGE
DECISION**

INTERCON CONSTRUCTION INC
Employer

OC: 01/17/16
Claimant: Appellant (3)

Iowa Code § 96.5(1) – Voluntary Quit
Iowa Code § 96.5(1)g – Requalification for Benefits

STATEMENT OF THE CASE:

The claimant filed a timely appeal from a representative's decision dated November 23, 2016, reference 01, which denied unemployment insurance benefits, finding that the claimant voluntarily quit work on August 14, 2016, without good cause. After due notice was provided, a telephone hearing was held on December 15, 2016. Claimant participated. Participating as witnesses for the employer were Ms. Marylou Bowers and Mr. Troy Heath.

ISSUE:

The issue is whether the claimant left employment with good cause attributable to the employer and whether the claimant has requalified for unemployment insurance benefits.

FINDINGS OF FACT:

Having considered all of the evidence in the record, the administrative law judge finds: Matthew Wilkinson was employed by Intercon Construction Inc. from November 5, 2012 until August 14, 2016, when he left employment at mid-day without the authorization or knowledge of the employer. Mr. Wilkinson was employed as a full-time laborer working on the company's concrete crew and was paid by the hour. His immediate supervisor was Mr. Troy Heath.

Mr. Wilkinson and another employee left work on August 14, 2016, without notice to the employer by walking off the job, taking a company truck to Marshalltown, Iowa, and then leaving from Marshalltown, Iowa, for their places of residence in Wisconsin via the other employee's personal vehicle.

The claimant and other workers had been informed, approximately two weeks previously, that the company would no longer accommodate them by providing transportation to and from the worksite in Iowa, and would be expected to provide their own transportation to and from the worksite on a weekly basis. The employees would receive pay for the time that they were performing their duties for the company at the jobsite, but not for travel time. Mr. Wilkinson did not like the change, but continued working.

The claimant provided no notice, before quitting his employment on August 14, 2016. He left without notice using a company vehicle, but did not return to the jobsite, as expected. The employer reasonably expected notice of the claimant's intention to leave in advance. The company did not authorize the claimant to leave the worksite prior to the end of the work or to use the company vehicle for his personal benefit.

It is the claimant's position that although he quit his job at Intercon Construction, Inc., he has earned sufficient requalifying wages since being separated from his employment from Intercon Construction Inc. and therefore, should not be disqualified for the receipt of unemployment insurance benefits.

REASONING AND CONCLUSIONS OF LAW:

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 Code § 96.5-1-g 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. But the individual shall not be disqualified if the department finds that:

g. The individual left work voluntarily without good cause attributable to the employer under circumstances which did or would disqualify the individual for benefits, except as provided in paragraph "a" of this subsection but, subsequent to the leaving, the individual worked in and was paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

In the case at hand, the claimant had been informed that the company planned to discontinue providing gratuitous transportation for employees to the worksite in Iowa and that employees would be required to provide their own transportation to and from the worksite, and employees would not be paid for travel time. Although informed of this change, Mr. Wilkinson remained employed for approximately two more weeks and had not indicated his intention to leave employment. Mr. Wilkinson unexpectedly walked off the job on August 14, 2016, by driving a company vehicle to Marshalltown, Iowa, where he and another employee then left the state by their personal transportation. At the time of leaving, the claimant had not provided notification and had not been authorized to leave work before the end of the shift or authorized to use the company vehicle for personal reasons.

For these reasons, the administrative law judge concludes the claimant has not established good cause attributable to the employer. Claimant had accepted the change for a substantial period of time and had left work without notification.

Subsequent to leaving this employment however, Mr. Wilkinson has worked in and been paid wages for insured work equaling ten times his weekly benefit amount.

DECISION:

The representative's decision dated November 23, 2016, reference 01, is affirmed as modified. The portion of the termination finding the claimant voluntarily left employment without good cause attributable to the employer is affirmed. The portion of the termination disqualifying the claimant from the receipt of unemployment insurance benefits is modified. Claimant has requalified for benefits by earning ten times his weekly benefit amount for insured work and is eligible to receive unemployment insurance benefits, provided he is otherwise eligible. The account of Intercon Construction Inc. shall not be charged for benefits paid to Mr. Wilkinson.

Terry Nice
Administrative Law Judge

Decision Dated and Mailed

rvs/rvs