

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

EUGENE NAUMAN

Claimant

APPEAL NO: 15A-UI-10474-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

BODINE ELECTRIC COMPANY

Employer

OC: 08/09/15

Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the August 25, 2015, reference 01, decision that denied benefits. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on October 1, 2015. The claimant participated in the hearing. Becky Brown, Human Resources Manager, participated in the hearing on behalf of the employer.

ISSUE:

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

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: A disqualification decision was mailed to the claimant's last-known address of record on August 25, 2015. The claimant received the decision within two days of August 25, 2015. The decision contained a warning that an appeal must be postmarked or received by the Appeals Section by September 4, 2015. The appeal was not filed until September 18, 2015, which is after the date noticed on the disqualification decision. After receiving the representative's decision the claimant went to the Dubuque office and asked that office to fax his appeal at 10:45 a.m. August 28, 2015. The Dubuque office, however, had the Appeals Bureau's previous fax number and consequently the claimant's appeal did not go through but neither he nor the office staff knew that at the time. After waiting to hear from the Appeals Bureau for several days, the claimant called and was told it had not been received in that office so the claimant resent the fax September 18, 2015. Under these circumstances, the administrative law judge finds the claimant's appeal is timely.

The claimant was employed as a full-time flex associate in the assembly department for Bodine Electric Company from May 6, 1999 to August 8, 2015. He voluntarily left his employment after the employer offered employees a voluntary separation agreement because it was shutting

down one of the production lines in the plant. The claimant agreed to the terms and took the offer. The offer also included an incentive of \$10,000.00 if an employee took the voluntary separation. The claimant chose to take the offer in large part because he is an older worker and did not want to see a younger worker with children laid off.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment without 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.

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. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2.

In this case the claimant did not leave because of unlawful, intolerable, or detrimental working conditions but rather because the employer was shutting down a production line and he believed he should take the voluntary separation to spare a younger worker with children from being laid off. The claimant, however, would not have been laid off or lost his job had he chosen to stay. While the claimant committed a noble and selfless act, because he chose to take the voluntary separation, his separation from employment must be analyzed as a voluntary leaving of employment. Because the claimant did not leave for good cause attributable to the employer, such as unlawful, intolerable, or detrimental working conditions, the administrative law judge has no choice but to find the claimant has not met his burden of proving his leaving was for good cause attributable to the employer as that term is defined by Iowa law. Therefore, benefits must be denied.

DECISION:

The August 25, 2015, reference 01, decision is affirmed. The claimant's appeal is timely. The claimant voluntarily left his 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.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs