

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

FRANKLIN C SLATON
Claimant

PER MAR SECURITY & RESEARCH CORP
Employer

APPEAL 14A-UI-13080-G
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 11/16/14
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from a decision of a representative dated December 15, 2014 (reference 02) that held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on February 3, 2015 in Des Moines, Iowa. Claimant participated in person. Employer participated in person by Randy Mulder, General Manager.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on November 18, 2014. Claimant had been working as a security officer and his assignment had recently ended sometime in late October 2014. Claimant was offered to work at two other places by employer shortly after that assignment ended.

Claimant ended his next assignment because he did not feel safe at that location. The business was using chemicals and/or other substances that made him cough during his shift. He contacted employer at that time and a new assignment was offered to him in the West Des Moines area. Claimant later declined that assignment also because he felt West Des Moines was too far away to commute to work every day.

Employer was not able to provide anymore assignments at that time that were closer than the West Des Moines area. Employer believed that claimant was refusing to accept work and they were not able to accommodate his requests. Claimant did not contact the employer and request additional work.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because he did not like the work assignments that were offered him.

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(1), (21), (27), and (30) 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:

(1) The claimant's lack of transportation to the work site unless the employer had agreed to furnish transportation.

(21) The claimant left because of dissatisfaction with the work environment.

(27) The claimant left rather than perform the assigned work as instructed.

(30) The claimant left due to the commuting distance to the job; however, the claimant was aware of the distance when hired.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). 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).

Individuals who leave their employment due to disparate treatment are considered to have left work due to intolerable or detrimental working conditions and their leaving is deemed to be for good cause attributable to the employer. The test is whether a reasonable person would have quit under the circumstances. See *Aalbers v. Iowa Dep't of Job Serv.*, 431 N.W.2d 330 (Iowa 1988) and *O'Brien v. Emp't Appeal Bd.*, 494 N.W.2d 660 (Iowa 1993). Claimant's reasons for refusing work were not reasonable. Claimant was offered work on two different occasions and he refused to accept the work that was offered to him.

DECISION:

The decision of the representative dated December 15, 2014 (reference 02) is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

Duane L. Golden
Administrative Law Judge

Decision Dated and Mailed

dlg/can