

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

---

**CLARENCE I GREENLEAF**  
Claimant

**BRAGG CRANE SERVICE**  
Employer

**APPEAL 18A-UI-04309-JP-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 05/21/17**  
**Claimant: Appellant (2)**

---

Iowa Code § 96.5(1) – Voluntary Quitting

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the April 4, 2018, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on April 25, 2018. Claimant participated. Employer did not register for the hearing and did not participate.

**ISSUE:**

Did claimant voluntarily quit the employment with good cause attributable to employer?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was the only participant in the hearing and all findings of fact are derived from his testimony. Claimant was employed full-time as a crane operator from around February 4, 2018, and was separated from employment on March 16, 2018, when he quit.

When claimant started with the employer, the employer provided claimant with a company vehicle to drive from the shop to the job site. After the initial vehicle the employer provided claimant broke down, it provided him a second vehicle. The second vehicle had multiple warning lights on for three weeks, which claimant reported to the employer. The employer refused to address the warning lights on claimant's company vehicle.

As a crane operator, claimant's basic job duties involved operating a crane. From approximately February 11, 2018 until March 16, 2018, the crane claimant was assigned to operate had controls that were broken. The controls that were broken prevented claimant from shutting the crane off, which created a serious safety issue. If claimant had to run from the area due to a potential gas leak, he needed to be able to shut off the crane to keep it from igniting the gas. Claimant also needed to be able to shut the crane off in case there was a malfunction with any part of the crane or a dangerous situation existed on the job site. Claimant understood that the broken controls on the crane were an OSHA and MSHA (Mining Safety and Health Administration) violation. Because of this violation, the crane should not have been used until it was fixed. From approximately February 11, 2018 until March 16, 2018, claimant reported the

issue every day to the employer. Claimant testified that the employer always responded to claimant that they were working on it, but the employer never fixed the broken controls. On March 16, 2018, claimant determined that the employer was never going to fix the issue with the crane, so he told shop manager Brandon Kohl that he was quitting effective immediately. Claimant told Mr. Kohl that he was quitting because the employer refused to perform maintenance on the crane he was using and the company vehicle he was given.

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

For the reasons that follow, the administrative law judge concludes claimant voluntarily left the employment with good cause attributable to the employer. Benefits are allowed.

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. 871-24.26(4) provides:

**Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits.** The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(4) The claimant left due to intolerable or detrimental working conditions.

Iowa Admin. Code r. 871-24.26(2) provides:

**Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits.** The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(2) The claimant left due to unsafe working conditions.

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). A notice of an intent to quit had been required by *Cobb v. Emp't Appeal Bd.*, 506 N.W.2d 445, 447-78 (Iowa 1993), *Suluki v. Emp't Appeal Bd.*, 503 N.W.2d 402, 405 (Iowa 1993), and *Swanson v. Emp't Appeal Bd.*, 554 N.W.2d 294, 296 (Iowa Ct. App. 1996). Those cases required an employee to give an employer notice of intent to quit, thus giving the employer an opportunity to cure working conditions. However, in 1995, the Iowa Administrative Code was amended to include an intent-to-quit requirement. The requirement was only added to rule 871-24.26(6)(b), the provision addressing work-related health problems. No intent-to-quit requirement was added to rule 871-24.26(4), the intolerable working conditions provision. Our supreme court recently concluded that, because the intent-to-quit requirement was added to rule 871-24.26(6)(b) but not 871-24.26(4), notice of intent to quit is not required for intolerable working conditions. *Hy-Vee, Inc. v. Emp't Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005).

From approximately February 11, 2018 until March 16, 2018, claimant reported to the employer a serious safety issue (broken controls) with the crane the employer had assigned him to operate. The employer continually told claimant it would fix the issue; however, claimant testified from February 11, 2018 to March 16, 2018, the employer never fixed the issue. The employer's failure to promptly fix a serious safety issue on claimant's crane created an intolerable and unsafe work environment for claimant that gave rise to a good cause reason for leaving the employment. Benefits are allowed.

**DECISION:**

The April 4, 2018, (reference 01) unemployment insurance decision is reversed. Claimant voluntarily left the employment with good cause attributable to the employer. Benefits are allowed, provided claimant is otherwise eligible. Any benefits claimed and withheld on this basis shall be paid.

---

Jeremy Peterson  
Administrative Law Judge

---

Decision Dated and Mailed

jp/rvs