

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

ROBERT A TILLEY
Claimant

REDING GRAVEL & EXCAVATING CO
Employer

APPEAL NO. 18A-UI-11675-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 11/11/18
Claimant: Appellant (1)**

Iowa Code § 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated November 30, 2018, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on December 17, 2018. Claimant participated. Employer participated by Molly Bartolo.

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 October 23, 2018. Claimant voluntarily quit on October 24, 2018, when he refused to go back to the site he was assigned, when employer stated that claimant was either to go there or to go home. Claimant had no further contact with employer after he walked off the job.

Claimant worked as an equipment operator for employer. In October, claimant was at a job site two hours away from his home where he was moving gravel. Claimant stated that he didn't feel that proper safety procedures were being followed, and this resulted in a potentially dangerous situation. Claimant also stated that the previous day he hadn't received any breaks in working for over ten hours. Claimant did not register either of these complaints with employer. The next day when jobs were being assigned, claimant stated that he wasn't going to go back to the previous site. Employer stated to claimant to go to that site, or go home. Claimant went home and was never heard from again.

Claimant stated he didn't complain about the safety or the lack of breaks to employer because he was told to mind his own business when he'd gone to human resources a few months earlier to complain about a co-worker mishandling a timecard. Claimant believed after this that he couldn't go to employer with any issues.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 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.

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 didn't like the distance traveled to the job site, didn't like the lack of breaks at the job site, and didn't believe the situation where he was working was safe.

Ordinarily "good cause" is derived from the facts of each case keeping in mind the public policy stated in Iowa Code Section 96.2. *O'Brien v. EAB* 494 N.W.2d 660, 662 (Iowa 1993) (citing *Wiese v. IA Dept. of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986)). "The term encompasses real circumstances, adequate excuses that will bear the test of reason, just grounds for the action, and always the test of good faith." *Wiese v. IA Dept. of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986). "Common sense and prudence must be exercised in evaluating all of the circumstances that led to an employee's quit in order to attribute the cause for the termination." *Id.* In this matter, claimant's reasons for the quit were the lack of safety of the gravel that he was moving and the lack of a break. Regarding the safety issue, claimant stated that he never went to his supervisor or anyone in human resources or above him in any capacity, to complain about the safety issue. Regarding the breaks issue, claimant did not go to human resources to alert them of the lack of breaks. Claimant did also complain about his length of travel to the job site, and the administrative law judge believes that this could also have been a factor in his quit that was not attributable to employer.

DECISION:

The decision of the representative dated November 30, 2018, reference 01, 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.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed

bab/scn