

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LAVELL W SMITH

Claimant

APPEAL NO. 14A-UI-06126-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CARGILL MEAT SOLUTIONS CORP

Employer

OC: 05/11/14

Claimant: Appellant (1)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Lavelle Smith filed a timely appeal from the June 4, 2014, reference 01, decision that disqualified him for benefits. After due notice was issued, a hearing was held on July 8, 2014. Mr. Smith participated. The employer did not respond to the hearing notice instructions to provide a telephone number for the hearing and did not participate. Exhibit A was received into evidence.

ISSUE:

Whether Mr. Smith's voluntary quit was for good cause attributable to the employer. It was not.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Lavell Smith was employed by Cargill Meat Solutions Corporation as a full-time production laborer from 2011 until January 24, 2014, when he voluntarily quit to relocate back to Chicago, Illinois. The workplace was located in Ottumwa. During the employment, Mr. Smith had resided in Ottumwa with a roommate. The roommate was on the lease, but Mr. Smith was not. Mr. Smith had been paying the roommate \$300.00 per month in rent to the roommate. The roommate was evicted from the dwelling and this resulted in Mr. Smith needing to make other living arrangements. Mr. Smith's hourly wage at the employment had been \$15.30 per hour. Mr. Smith worked 40 to 48 hours per week. Given the hourly wage and the number of hours worked, Mr. Smith's gross weekly wages were \$612.00 to \$734.00 and monthly wages were about \$2,938.00.

During the employment, Mr. Smith's wife and children remained in Chicago. Mr. Smith's wife did not want to relocate to Ottumwa. Mr. Smith's wife had been receiving financial support and other support from her family members. A couple of the family members who had been providing that support passed away. In addition to needing to find other living arrangements if he wished to continue in the employment in Ottumwa, Mr. Smith felt compelled to return to Chicago to assist his wife with care and support for their family. At the time Mr. Smith separated from the employment, the employer continued to have work for him.

A month after Mr. Smith separated from the employment, he contacted the employer about possibly returning to the employment. The employer declined to return Mr. Smith to the employment at that time.

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.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

The evidence in the record indicates that Mr. Smith voluntarily quit without good cause attributable to the employer. Mr. Smith quit to relocate back to Chicago. A quit based on a desire to relocate to a different community is a quit without good cause attributable to the employer. See Iowa Admin. Code r. 871 IAC 24.25(2). Mr. Smith's living arrangements were a matter of personal responsibility and a quit due to a loss of housing would be a quit without good cause attributable to the employer. The weight of the evidence indicates that Mr. Smith's wages were sufficient to secure housing in the Ottumwa area that would have allowed him to continue in the employment. Mr. Smith decided instead to return to Chicago.

Because the voluntary quit was without good cause attributable to the employer, Mr. Smith is disqualified for benefits until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The employer's account shall not be charged for benefits.

DECISION:

The claims deputy's June 4, 2014, reference 01, decision is affirmed. The claimant voluntarily quit the employment without good cause attributable to the employer. The claimant is disqualified for benefits until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The employer's account shall not be charged.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs