

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JOHN R VAN HEEL
Claimant

APPEAL 15A-UI-05892-JCT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FLETCHER WOOD PRODUCTS INC
Employer

**OC: 04/26/15
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the May 15, 2015, (reference 01) unemployment insurance decision that denied benefits based upon separation. The parties were properly notified about the hearing. A telephone hearing was held on June 25, 2015. The claimant participated. The employer participated through Clark Fletcher. Claimant Exhibit One was received.

ISSUE:

Did the 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: The claimant was employed full time as a cabinet assemblyman and was separated from employment on April 27, 2015.

On April 23, 2015, the claimant became upset during his shift regarding a prior staffing decision made by the employer. He told the production manager, Danny, that he was leaving to “go mow my yard, walk my dog, and go apply for another job.” The claimant then walked off his job mid-shift. The claimant mowed his yard, and walked his dog, but decided not to apply for another job, and left a voicemail for Danny, stating he intended to return to work on Monday, April 27, 2015. The employer had an “exit” meeting with the claimant on Monday, April 27, 2015, and did not allow the claimant to rescind his verbal resignation. Had the claimant not walked off his shift and said he was applying for another job, he would have remained employed.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant’s separation from the employment was 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.

Iowa Admin. Code r. 871-24.25(27) and (37) provide:

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 § 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 § 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:

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

(37) The claimant will be considered to have left employment voluntarily when such claimant gave the employer notice of an intention to resign and the employer accepted such resignation. This rule shall also apply to the claimant who was employed by an educational institution who has declined or refused to accept a new contract or reasonable assurance of work for a successive academic term or year and the offer of work was within the purview of the individual's training and experience.

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). In this case, the claimant quit performing his work mid-shift, and walked off the job stating he was going to apply for another job. This conduct reflects an intent to sever the relationship, and therefore, the separation was a quit and not a discharge.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). In this case, the claimant was upset with the employer based a staffing decision from the prior day. An employer has the right to allocate personnel in accordance with the needs and available resources. Brandi v IDJS, (Unpublished Iowa App. 1986). It is understandable that upon reconsideration, the claimant wished to rescind his resignation, but an employer is not required to accept the rescinding and allow the claimant to return to work.

In this case, the employer accepted the resignation based on the claimant's conduct exhibited during his exit meeting. The exit meeting would not have occurred but for the fact the claimant had walked off the job and stated he was looking for a new job. Based on the evidence presented, the claimant's decision to quit when he got upset and did not agree with the employer about its staffing choices the prior day was not for a good cause reason attributable to the employer. Benefits are denied.

DECISION:

The May 15, 2015, (reference 01) unemployment insurance decision is affirmed. The claimant voluntarily left the 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.

Jennifer L. Coe
Administrative Law Judge

Decision Dated and Mailed

jlc/css