

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ARTHUR L GONZALES
Claimant

APPEAL NO. 09A-UI-17469-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DAHL TRUCKING
Employer

OC: 07/26/09
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the November 9, 2009 (reference 01) decision that denied benefits. After due notice was issued, a telephone conference hearing was held on December 28, 2009. Claimant participated. Employer participated through Safety Director Barb Owen and Human Resources Representative Sue Benscoter.

ISSUE:

The issue is whether claimant voluntarily left the employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant most recently worked full-time as a local and regional driver and was separated from employment on October 9, 2009. On August 27, 2009 claimant gave employer notice of his intent quit on September 11, 2009 because he intended to sell his house and move from Estherville, Iowa to Norman, Oklahoma. After discussion, he agreed to work until the end of the rock hauling season for the belly dump truck after taking a week off from work through September 19. He gave his second notice to quit on October 5 to become effective October 9 because he had sold his house. Continued work was available. The rock hauling season for the belly dump truck did not end until November 11, 2009. He had applied for a job as a shuttle bus driver for the River Wind Casino in Norman, Oklahoma and was instructed to contact them after he moved to Oklahoma. When he arrived, no jobs were available.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment 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.

871 IAC 24.25(2) and (3) 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:

(2) The claimant moved to a different locality.

(3) The claimant left to seek other employment but did not secure employment.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). Since claimant quit the employment with Dahl Trucking while work was still available so he could move to Oklahoma and did not have a firm job offer but merely an invitation to apply for work when he moved to Oklahoma, these were not good-cause reasons attributable to the employer for leaving the employment. Benefits must be denied.

DECISION:

The November 9, 2009 (reference 01) decision is affirmed. The claimant voluntarily left his 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.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/css