

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ELWIN J WALTE
Claimant

APPEAL NO. 13A-UI-14147-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

PER MAR SECURITY & RESEARCH CORP
Employer

OC: 11/17/13
Claimant: Appellant (1)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Elwin Walte filed a timely appeal from the December 19, 2013, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on January 16, 2014. Mr. Walte participated. Rose Willer represented the employer. Exhibits One, Two and Three were received into evidence.

ISSUE:

Whether the claimant'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: Elwin Walte was employed by Per Mar Security as a full-time site supervisor until November 8, 2013, when he voluntarily quit due to dissatisfaction with his pay. Mr. Walte had started the employment in 2007 as a security officer and his starting wage was \$7.25 per hour. Later, the minimum wage rose to \$7.50 per hour and Mr. Walte received a \$.25 per hour raise to bring him up to the new minimum wage. Mr. Walte was then promoted to the site supervisor position and received a \$1.00 increase in his hourly wage in connection with that promotion. Mr. Walte remained in the site supervisor position for about five years and his hourly wage remained \$8.50 an hour. Mr. Walte's hourly wage was set by the contract that the security agency had with its client. Contract was not renegotiated during Mr. Walte's employment.

On October 28, 2013, Mr. Walte gave the employer a written notice that he would be resigning effective November 8, 2013. Mr. Walte cited a lack of a pay raise for over five years, the lack of a new contract with the client, and a lack of support from the employer's home office. All three issues related to Mr. Walte's dissatisfaction with his wages. The employer attempted to persuade Mr. Walte to remain in the employment and offered to place him at another, more distant site, where he could earn \$9.00 an hour. Mr. Walte declined to remain in the employment.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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(13) provides:

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 section 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 section 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:

(13) The claimant left because of dissatisfaction with the wages but knew the rate of pay when hired.

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 the sole reason for the voluntary quit was dissatisfaction with the hourly wage. The wage had been the same for five years. The wage had not decreased. Mr. Walte knew the wage for the site supervisor position at the time that he started the position. The fact that Mr. Walte thought he deserved a pay increase did not obligate the employer to provide a pay increase. Under the administrative rule cited above, the quit was without good cause a triple to the employer. Accordingly, Mr. Walte 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 Agency representatives December 19, 2013, 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/css