

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MICHAEL BOGGESS

Claimant

APPEAL NO: 10A-UI-08966-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

IOWA COMPREHENSIVE HUMAN SVCS

Employer

OC: 05-16-10

Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the June 16, 2010, reference 01, decision that denied benefits. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on August 10, 2010. The claimant participated in the hearing. Teresa Burke, Director of Emergency Public Jobs (EPJ) and James Underwood, Executive Director, participated in the hearing on behalf of the employer.

ISSUE:

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

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time supervisor of the Emergency Public Jobs (EPJ) crew at the Des Moines YMCA Camp for Iowa Comprehensive Human Services from March 9, 2009 to March 22, 2010. The claimant and his crew worked on 2008 flood cleanup and restoration and were limited to working on the consequences of that flood only unless they chose to volunteer their time on subsequent floods. During the week of March 8, 2010, the Des Moines YMCA Camp flooded again when the winter snow began melting. Dave Sherry, the camp director, called EPJ Director Teresa Burke and “frantically” asked her to call EPJ workers to help sandbag because the water was rising to the point it threatened the Y buildings the claimant and his crew had just redone. Ms. Burke was forced to tell Mr. Sherry she could not pay the EPJ workers to sandbag on that project because it was not due to the 2008 flood but stated they could volunteer if they wanted. Mr. Sherry was unhappy with her answer. On March 19, 2010, Mr. Sherry notified the claimant his crew could not return to work the week of March 22, 2010, because of the flood waters and the fact the electricity was turned off as a result. Mr. Sherry also asked the claimant to submit a bid on some non-EPJ work in his spare time. On Saturday, March 20, 2010, at approximately 7:30 p.m., Mr. Sherry called the claimant to ask for his bid on the non-EPJ project and Mr. Sherry’s tone and demeanor changed after the claimant gave him his bid. He demanded that the claimant’s crew return March 22, 2010, and the claimant said that was good and his crew was ready to go. At that point Mr. Sherry “attacked” the claimant’s

crew for not volunteering to sandbag when asked to do so the week of March 8, 2010. The claimant found his comments unnecessary and wrong as his crew had volunteered its time in the past and brought their own tools and equipment to help perform the job. The claimant was irritated with Mr. Sherry and his comments “rubbed (him) the wrong way.” He knew the job was ending in June 2010 and did not want to put up with Mr. Sherry’s management style any longer. He decided he did not wish to deal with Mr. Sherry anymore and after going to work March 22, 2010, getting his crew started and picking a leader to replace him, the claimant called Ms. Burke and said he was resigning his position effective immediately. Ms. Burke asked him to reconsider and Mr. Sherry made attempts to contact the claimant to ask him to stay but the claimant declined to do so.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment without good cause attributable to the employer.

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.

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. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2. While it appears the claimant was a very good employee, he felt he could no longer work with Mr. Sherry due to his management style. There was tension between the claimant and Mr. Sherry prior to March 2010 but the proverbial last straw for the claimant came when Mr. Sherry “attacked” his crew for not volunteering to sandbag when flooding began again the week of March 8, 2010. Although the claimant’s opinions about Mr. Sherry’s management style may be understandable, the claimant had worked “for” Mr. Sherry for over one year and knew how he operated. His defense of his crew was admirable but Mr. Sherry’s frustration over not having volunteers from his crew to sandbag, although certainly not required, was likely frustrating to him as well which may have accounted for his behavior on that occasion. It is evident he did not intend to irritate or insult the claimant to the point of quitting as he tried to talk him out of doing so in the days following his resignation. Under these circumstances the administrative law judge must conclude that the claimant has not met his burden of proving that his leaving was due to unlawful, intolerable or detrimental working conditions as defined by Iowa law. Therefore, benefits must be denied.

DECISION:

The June 16, 2010, 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.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs