

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOSEPH M SHELL
Claimant

APPEAL NO: 17A-UI-05957-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

BAKER ELECTRIC INC
Employer

**OC: 05/14/17
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the June 7, 2017, reference 01, decision that denied benefits. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on June 27, 2017. The claimant participated in the hearing. The employer provided the name and telephone number of a witness but the witness was unavailable at that number when called for the hearing and did not participate in the hearing or contact the administrative law judge before the hearing record was closed.

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 journeyman wireman for Baker Electric from April 13, 2017 to May 5, 2017. He voluntarily left his employment Baker Electric because he was not making enough money to support two households.

The claimant has a mortgage in Alabama and had an apartment in Des Moines while he performed work in Iowa. He worked 58 hours per week for Tri-City Electric before being laid off in March 2017. The Union hiring hall found work for the claimant at Baker Electric earning \$34.03 per hour but he was working 40 hours per week without any overtime. At the time of hire the employer guaranteed the claimant 40 hours of work per week with the possibility of overtime but it did not have any overtime available while the claimant was employed there and consequently he could not afford to maintain two households. Therefore, he notified the employer he was returning to Alabama and his last day worked was May 5, 2017.

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 § 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 the claimant wanted to remain working in Iowa he was unable to afford to do so without overtime hours. At the time of hire the employer guaranteed him 40 hours per week and indicated there was the possibility of overtime but did not promise the claimant overtime. Consequently, while the administrative law judge is sympathetic to the claimant's situation, he has not demonstrated there was a substantial change in his contract of hire or that his leaving was for good cause attributable to the employer as that term is defined by Iowa law. Therefore, benefits must be denied.

DECISION:

The June 7, 2017, 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/scn