

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DEAN E WICKS
Claimant

APPEAL NO. 09A-UI-05518-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

RMT INC
Employer

OC: 12/14/08
Claimant: Appellant (1)

Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.5(1) – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the March 27, 2009, reference 03, decision that denied benefits. After due notice was issued, a telephone conference hearing was held on April 28, 2009. Claimant participated. Employer participated through Tracy Bredesom. Jereme Kent was not available to participate.

ISSUE:

The issue is whether the claimant quit employment without good cause attributable to the employer or if he was discharged for reasons related to job misconduct sufficient to warrant a denial of unemployment benefits.

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 laborer and was separated on March 3, 2009. On that date near the end of the shift with voluntary overtime his supervisor Brandon Broadbent was not present so he left the job site since he was becoming frustrated by a lack of materials for the job. Although the overtime was not mandatory, he volunteered to keep working when others left at 7:00 p.m. No one told him the overtime shift was over or gave him permission to leave; he did not seek permission from the supervisor to leave, he was not told he could leave at any time, and he had signed field guidelines that hourly employees would follow the working hours established by the supervisor. He had a radio available but did not use it to contact his supervisor before leaving because he was frustrated with the lack of materials. He did not swear at workers offering him a ride but had groused to others that he was seriously considering quitting. He accepted a second offer of a ride to the yard and signed out. When he reported for work the next day Broadbent told him he was considered to have quit the job by leaving early the day before without notice or permission.

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(18), (21) and (27) 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:

(18) The claimant left because of a dislike of the shift worked.

(21) The claimant left because of dissatisfaction with the work environment.

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

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2).

Claimant's decision to quit because he did not want to continue working the overtime he volunteered to work or call his supervisor about leaving early and his frustration with the lack of materials were not good-cause reasons attributable to the employer for leaving the employment. Benefits must be denied.

DECISION:

The March 27, 2009, reference 03, 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