

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DAVID E DAVIS
Claimant

APPEAL NO: 17A-UI-09963-TN

**ADMINISTRATIVE LAW JUDGE
DECISION**

IOWA CAGEFREE LLP
Employer

OC: 09/10/17
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

David E. Davis, the claimant, filed a timely appeal from a representative's decision dated September 28, 2017, reference 01, was denied unemployment insurance benefits finding that the claimant voluntarily quit work on September 8, 2017 without good cause attributable to the employer. After due notice was provided, a hearing was held in Creston, Iowa on October 19, 2017. Claimant participated personally. The employer participated personally by Mr. Dennis Peterson, Hearing Representative, Aureon Company. Appearing as witnesses for the employer were Mr. John Hopp, Assistant Complex Manager and Mr. Kevin Buchanan, Complex Manager. Employer Exhibits 1 and 2 were admitted into the hearing record.

ISSUE:

Whether the claimant left employment with good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having considered all of the evidence in the record, finds that: David Davis began employment with Iowa Cagefree, LLP on October 18, 2016. Mr. Davis worked as a full-time maintenance mechanic and was paid by the hour. Mr. Davis normally worked Tuesday through Saturday. His immediate supervisor was Wesley Dorsett, Maintenance Supervisor. Mr. Davis left his employment with the company on September 8, 2017.

The claimant left his employment with Iowa Cagefree LLP due to dissatisfaction with a management decision about which days of the week Mr. Davis would have off from work. Mr. Davis had requested a temporary change in his workdays so that he could be off work on Thursdays for a medical treatment that was not work-related. Mr. Davis was regularly scheduled off work on Sundays and Mondays, and Mr. Davis preferred to substitute being off work on Mondays for being off work on Thursdays during treatment. The claimant initially made his request to Mr. Dorsett, his supervisor, and subsequently also made the request to the Complex Assistant Manager and Manager.

The employer, who had accommodated Mr. Davis on a number of occasions in the past, was willing again to accommodate him but for business reasons, the employer was willing to accommodate Mr. Davis by substituting his Sundays off, instead of the Mondays that Mr. Davis preferred.

When informed of the company's decision on September 8, 2017, Mr. Davis became and quit his employment that day. Mr. Davis preferred to have his Sundays off to spend time with his family. The claimant would have been returned to his regular days off at the conclusion of the four week period that he had requested the change for.

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the evidence in the record establishes that Mr. Davis left his employment with good cause attributable to the employer. It does not.

Iowa Code § 96.5-1 provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

Iowa Admin. Code r. 871-24.25(18) 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:

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

The issue is whether the reasons for the claimant's separation from employment qualify him to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer. See Iowa Code Section 96.5(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).

In the case at hand, Mr. Davis chose to leave his employment with Iowa Cagefree LLP when he became angry at a management decision to substitute Sunday, one of his scheduled days off work, for Thursdays off work for a limited number of weeks. Mr. Davis had requested the temporary change but preferred to exchange his Mondays off for Thursdays off for the four week period. The employer, for business reasons, chose to allow the substitution of Mondays

for Thursdays off on a temporary basis. In the absence of any specific agreement to the contrary, the employer has the right to set the days and hours of work for employees.

The employer had accommodated Mr. Davis in the past and there has been no showing that the decision by the company to allow the substitution of Thursdays off for Sundays work was motivated by bad intent.

While Mr. Davis' decision to leave his employment may have been a good decision from his personal viewpoint, for the above stated reasons, the administrative law judge concludes that the claimant left employment without good cause attributable to the employer. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount, provided the individual is otherwise eligible.

DECISION:

The representative's decision dated September 28, 2017, reference 01, is affirmed. Claimant left employment without good cause attributable to the employer. Unemployment insurance benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount, provided the individual is otherwise eligible.

Terry P. Nice
Administrative Law Judge

Decision Dated and Mailed

tn/scn