

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

RAYMOND J BROOKS
Claimant

HOLT SALES AND SERVICE INC
Employer

APPEAL 20A-UI-15367-S1-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 08/09/20
Claimant: Appellant (1)

Iowa Code § 96.5-2-a – Discharge for Misconduct
Iowa Code § 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Raymond Brooks (claimant) appealed a representative's November 17, 2020, decision (reference 05) that concluded ineligibility to receive unemployment insurance benefits due to voluntarily quitting with the Holt Sales and Service (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on January 21, 2021. The claimant participated personally. The employer was represented by Dena Shelton, Hearings Representative, and participated by Angie Stroyer, Human Resources Administrator, and Zack Wahlert, Production Manager. The administrative law judge took official notice of the administrative file.

ISSUE:

The issues include whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on November 18, 2019, as a full-time pre-fabrication employee. On August 12, 2020, the employer issued the claimant a first written warning for attendance. The employer notified the claimant that further infractions could result in the claimant's separation from employment. The claimant became upset with the employer, quit work, and walked off the job. Continued work was available with the employer, had the claimant not resigned.

The claimant filed for unemployment insurance benefits with an effective date of August 9, 2020. His weekly benefit amount was determined to be \$268.00. The claimant received no state unemployment insurance benefits or Federal Pandemic Unemployment Compensation after August 9, 2020. He applied for Pandemic Unemployment Assistance and in a decision dated January 20, 2021, was denied benefits.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant voluntarily quit work without good cause attributable to the employer.

Iowa Code section 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(28) 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:

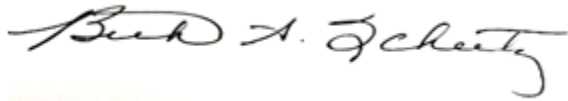
- (28) The claimant left after being reprimanded.

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980). The claimant's intention to voluntarily leave work was evidenced by words and actions. When employees quit work after having been reprimanded, their leaving is without good cause attributable to the employer. The claimant left work after having been reprimanded for his attendance. His leaving was without good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

The claimant's and the employer's testimony is inconsistent. The administrative law judge finds the employer's testimony to be more credible. The claimant's testimony was internally inconsistent. The employer provided two eyewitnesses to the events surrounding the separation.

DECISION:

The representative's November 17, 2020, decision (reference 05) is affirmed. The claimant voluntarily left work 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 claimant is otherwise eligible.



Beth A. Scheetz
Administrative Law Judge

February 8, 2021
Decision Dated and Mailed

bas/mh