

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

GLENN D RICE

Claimant

APPEAL 19A-UI-01188-AW-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

GRAHAM CONSTRUCTION CO

Employer

OC: 01/20/19

Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Admin. Code r. 871-24.25(24) – VQ – Retire

STATEMENT OF THE CASE:

Glenn Rice, Claimant, filed an appeal from the February 7, 2019 (reference 01) unemployment insurance decision that denied benefits because he voluntarily quit work with Graham Construction Co. for personal reasons. The parties were properly notified of the hearing. A telephone hearing was held on February 26, 2019 at 9:00 a.m. Claimant participated. Employer did not participate. Claimant's Exhibit A was admitted.

ISSUE:

Whether claimant's separation was a voluntary quit without good cause attributable to the employer.

FINDINGS OF FACT:

As claimant was the only witness, the administrative law judge makes the following findings of fact based solely upon claimant's testimony: Claimant was employed full-time as a laborer from August 2014 until his employment with Graham Construction Co. ended on January 18, 2019. Employer is a union contractor and, thus, only employs union members. Claimant chose to retire from the union effective January 18, 2019. As a result of his retirement from the union, claimant was unable to continue working for employer. Claimant's position with employer was not in jeopardy. Claimant could have continued working for employer, if he had not retired from the union.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily quit without good cause attributable to employer. Benefits are denied.

Iowa Code § 96.5(1) provides: An individual shall be disqualified for benefits, if the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

A voluntary quitting means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer and requires an intention

to terminate the employment. *Wills v. Emp't Appeal Bd.*, 447 N.W. 2d 137, 138 (Iowa 1989). 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); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant has the burden of proving that a voluntary quit pursuant to section 96.5, subsection 1, was for good cause attributable to the employer. Iowa Code § 96.6(2).

Iowa Admin. Code r. 871-24.25(24) 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:

(24) The claimant left employment to accept retirement when such claimant could have continued working.

Claimant voluntarily quit his employment when he chose to retire. Claimant's retirement from the union shows his intention to end his employment relationship with employer and serves as an overt act of carrying out his intention. Claimant chose to retire from the union, knowing that he would not be able to continue working for employer. If claimant had not retired from the union, he could have continued working for employer. Claimant voluntarily quit his employment and has not met his burden of providing good cause attributable to the employer. Benefits are denied.

DECISION:

The February 7, 2019 (reference 01) unemployment insurance decision is affirmed. Benefits are denied until such time as the claimant works in and has been paid wages for insured work equal to ten times claimant's weekly benefit amount.

Adrienne C. Williamson
Administrative Law Judge
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Decision Dated and Mailed

acw/rvs