

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

AUBREY A BAILEY
Claimant

APPEAL NO. 10A-UI-12453-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

GENCORE BREEDER SERVICES INC
Employer

OC: 07-11-10
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the August 31, 2010, reference 02, decision that denied benefits. After due notice was issued, a hearing was held on October 27, 2010. The claimant did participate. The employer did participate through Dave Jensen, Owner.

ISSUE:

Did the claimant voluntarily quit his employment without 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 an artificial inseminator and maintenance worker part time beginning January 2, 2010 through May 7, 2010 when voluntarily quit. The claimant quit to go work for another person, (non-insured employment) performing electrical work. He was gone from May 7, 2010. He did not ask for any particular time period for a leave of absence and never told the employer any particular time he would return to work. The employer has repeatedly asked the claimant to return to work in his same position that he held when he left, working Thursday and Sunday collection days and the claimant has yet to return to work. The claimant also moved out of the Huxley area to Newton and is now at least 48 miles from his former employer.

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(2), (20), (30) 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 § 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:

(2) The claimant moved to a different locality.

(20) The claimant left for compelling personal reasons; however, the period of absence exceeded ten working days.

(30) The claimant left due to the commuting distance to the job; however, the claimant was aware of the distance when hired.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). 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 voluntarily quit his employment to move and due to his desire to help a family friend. The employer has offered the claimant his old job back, but the claimant has refused to return to work. While claimant's decision to quit may have been based upon good personal reasons it was not a good-cause reason attributable to the employer for leaving the employment. Benefits must be denied.

DECISION:

The August 31, 2010 (reference 02) 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.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/pjs