

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**ROBERT R FARRIS**  
Claimant

**TRADESMEN INTERNATIONAL LLC**  
Employer

**APPEAL NO. 19A-UI-01404-B2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 01/06/19**  
**Claimant: Appellant (1)**

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Iowa Code § 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated February 14, 2019, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on March 4, 2019. Claimant participated. Employer participated by Brett Baker.

**ISSUE:**

The issue in this matter is whether claimant quit for good cause attributable to employer.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on December 10, 2018. Claimant voluntarily quit his job after that date as he failed to abide by employer's policies regarding staying in contact with employer.

In July of 2018 claimant signed on with employer as a helper in order to eventually enter into an apprenticeship program. Claimant signed for and received company policies at the time he was hired. Said policies included a statement that once an employee is working that they must stay in contact with the union when they have been released from that placement. They then need to call in to contact a placement coordinator daily after 4:00 p.m. when they are out of work. The policy states that compliance with this rule is essential and that failure to be in contact for a week could result in no work and a denial of unemployment benefits. Claimant worked at varying jobs aiding where needed. December 10, 2018 was the last day that claimant worked. Claimant was not in contact next with employer until December 17, 2018. Claimant didn't return a call until the job had been filled that day. The field representative texted claimant on December 18, 2018 asking claimant to work in Boone that day. Claimant stated that he would need to be paid more if he was to work in Boone as it was a large distance to drive. (Additionally in the company policies was a statement explaining that local territory is considered within 60 miles of Des Moines.) Employer found someone else to fill in this position before claimant contacted the field rep late in the afternoon stating he would take the job. On December 19, 2018 and another job was offered to claimant, but he didn't return the call. On

December 21, 2018, employer texted claimant asking if he was available after the holidays. Employer did not hear back from claimant.

As a result of claimant's doing his duties slowly and not taking jobs when offered, claimant was not entered into the apprenticeship program.

Claimant stated he was a very hard worker and never refused a job. Claimant also stated that he never received any of the policy documents employer stated to have given him. Claimant stated that the first time he found out he was no longer working for employer was when he received the decision denying claimant benefits from IWD.

### **REASONING AND CONCLUSIONS OF LAW:**

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.

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship by not staying in contact with employer for an extended period of time, against employer's policies.

It is the duty of the administrative law judge as the trier of fact in this case, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa Ct. App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *State v. Holtz*, Id. In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other believable evidence; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *State v. Holtz*, Id. In this matter, claimant did not give consistent testimony regarding whether he'd ever denied a placement. Additionally, claimant's lack of candor throughout the hearing leads to his testimony not being deemed as credible as employer's. Towards that end, employer's statement regarding the giving of the policy regarding ongoing contacts to claimant and all other hires is believed.

As claimant did not stay in contact with employer as he was instructed to at the time of hire, claimant is deemed to have voluntarily quit his employment.

Ordinarily "good cause" is derived from the facts of each case keeping in mind the public policy stated in Iowa Code Section 96.2. *O'Brien v. EAB* 494 N.W.2d 660, 662 (Iowa 1993) (citing *Wiese v. IA Dept. of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986)). "The term encompasses real circumstances, adequate excuses that will bear the test of reason, just grounds for the action, and always the test of good faith." *Wiese v. IA Dept. of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986). "Common sense and prudence must be exercised in evaluating all of the circumstances that led to an employee's quit in order to attribute the cause for the termination."

*Id.* Here, claimant has not shown good cause for his voluntary quit, as he just did not maintain the day-to-day contact employer required.

**DECISION:**

The decision of the representative dated February 14, 2019, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

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Blair A. Bennett  
Administrative Law Judge

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Decision Dated and Mailed

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