

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

TERRY L RIVERA
Claimant

IOWA RESTORATION SERVICES LLC
Employer

APPEAL 15A-UI-05792-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 04/19/15
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed an appeal from the May 7, 2015, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on June 25, 2015. Claimant participated. Employer participated through Christina Boyd, Office Manager.

ISSUES:

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: Claimant was employed full-time as a painter/drywall repair beginning on June 21, 2014 through April 17, 2015 when he voluntarily quit.

The claimant worked at job sites all over the state. Right before his employment ended he was working on a job site in New Virginia, Iowa. When he was in the office on April 17 Ms. Boyd said to him something to the effect of hey, I need to talk to you about your time sheet. She did not accuse him of cheating on his time sheet or any impropriety. The claimant made a comment to the effect of what; I don't get paid for my drive time any longer. The claimant and other employees were sometimes paid for the drive time when they worked out of town. Before the project manager or the office manager could answer the claimant, he became angry and walked out indicating he was quitting. As office manager it was within Ms. Boyd's job responsibilities to question the time card of any employee. All the claimant had to do was explain that his text time was the time he left the job site and the time on his time card was when he arrived back in Des Moines.

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.

Iowa Admin. Code r. 871-24.25(21) 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:

(21) The claimant left because of dissatisfaction with the work environment.

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).

Ms. Boyd was within her rights to ask the claimant about his time card. He had only to explain to her the discrepancy between the time he left the job site and the time on his card and the situation could have been explained. Ms. Boyd never accused the claimant of theft or lack of integrity. Under these circumstances the administrative law judge cannot conclude that Ms. Boyd questioning the claimant gave him good cause attributable to the employer for leaving the employment. 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 May 7, 2015 (reference 01) 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