

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHAD W WHITTINGTON
Claimant

APPEAL NO. 11A-UI-04193-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

LYNNE VAN GROOTHEEST
TRI-STATE AG CORP
Employer

OC: 05/23/10
Claimant: Appellant (1)

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The claimant, Chad Whittington, filed an appeal from a decision dated March 30, 2011, reference 03. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on April 26, 2011. The claimant participated on his own behalf. The employer, Tri-State, participated by Salesperson Mike Johnson, Supervisor Jason Jacobson and Laborer Terry Techen.

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

Chad Whittington was employed by Tri-State from August 10, 2010 until March 9, 2011 as a full-time laborer. On March 8, 2011, he was sent to Fort Dodge, Iowa, to pick up material. He returned right at the end of the shift. The next day when the claimant reported to work Supervisor Jason Jacobson asked him why it had taken him so long to drive to Fort Dodge and back the day before. Mr. Whittington said his father had just gotten out of the hospital and he stopped to visit him for a while. The supervisor told him he would have to deduct that time from his time sheet and then said he would be working outside the rest of the day.

The claimant left to call his girlfriend and discussed that he had felt “humiliated” by Mr. Jacobson questioning him. The two of them agreed he should quit. He hung up and went to Mr. Jacobson and said, “Good luck. I’m done. Good bye.” He left.

On his way out of the parking lot he called Owner Brad Van Grootheest and said he was quitting because the supervisor had humiliated him. The owner said he would get back to him but never did.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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(22) 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:

(22) The claimant left because of a personality conflict with the supervisor.

The claimant maintained he had been humiliated by the supervisor you used bad language. The supervisor and another witness denied any bad language being used and the claimant did not have any other witnesses who agreed with his version of the exchange. If the claimant had a serious complaint about the supervisor he could have spoken with the owner before, rather than after, he quit.

In order for good cause attributable to the employer to exist, a claimant with grievances must make some effort to give the employer an opportunity to work out whatever problem led to the grievance. By not giving notice to the employer of the circumstances causing the decision to quit employment, the claimant failed to give the employer an opportunity to make adjustments which would alleviate the need to quit. *Denby v. Board of Review*, 567 P.2d 626 (Utah 1977).

The claimant's disagreement with his supervisor does not constitute good cause attributable to the employer under the provisions of the above Administrative Code section. He is disqualified.

DECISION:

The representative's decision of March 30, 2011, reference 03, is affirmed. Chad Whittington is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css