

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ANTONIO M RAMOS
Claimant

APPEAL NO: 17A-UI-13386-TN-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CEREBRAL INFOTECH LLC
Employer

OC: 12/03/17
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Leave

STATEMENT OF THE CASE:

The claimant filed a timely appeal from a representative's unemployment insurance decision dated December 26, 2017, reference 01 which denied unemployment insurance benefits finding that the claimant voluntarily quit work on July 1, 2017 because he did not like the work environment. After due notice was provided, a telephone hearing was held on January 19, 2018. Claimant participated. The employer participated by Mr. Kalyan Venkatraman, Company Owner and Mr. Curtiss Nuzback, Project Coordinator.

ISSUE:

Whether the claimant left employment with good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having considered all of the evidence in the record, finds: Antonio Ramos was employed by Cerebral Infotech, LLC as a full-time concrete laborer and finisher from May 15, 2017 until July 10, 2017 when he voluntarily left employment to seek other work. Mr. Ramos was employed full-time and was paid by the hour.

Mr. Ramos left his employment with the captioned company when he discontinued reporting for work and did not return. Prior to quitting his employment, Mr. Ramos did not provide notice to the employer or give the employer a reason for quitting.

The claimant had taken some time off of work the previous week without authorization; however the employer had allowed Mr. Ramos to return to work on July 10, 2017. The claimant discontinued returning to work after that day. Work continued to be available to the claimant at the time of his leaving.

While the claimant was employed by the company, some portions of projects that the company was doing for the City of Des Moines did not pass city inspections and had to be redone. Employees were paid for their working hours that they performed services for the company whether they were working on a new project or repairing one that had been unacceptable. Occasionally there was a temporary interruption of work for limited periods due to inspection

issues. It appears that the amount of time involved in these instances was not significant and not unlike other factors such as inclement weather which might temporarily interrupt a project.

It is the claimant's position that he decided to look for new work because the company contract with the City of Des Moines was in jeopardy and that he might lose his employment in the future. His employer's believe that Mr. Ramos was incarcerated and could not return to work because of his own actions.

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the evidence in the record establishes the claimant left employment with good cause attributable to the employer. It does not.

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.

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.

Iowa Admin. Code r. 871-24.26(4) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(4) The claimant left due to intolerable or detrimental working conditions.

The claimant is disqualified for benefits and the claimant has left work voluntarily without good cause attributable to the employer. See Iowa Code Section 96.5(1). When a person voluntarily quits the employment due to dissatisfaction with the work environment or inability to work with other employees, the quit is determined to be without good cause attributable to the employer. See 871 IA C24.25(21)(6).

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See 871 IAC 24.26(4). The test is whether a reasonable person

would have quit under the circumstances. See *Aalbers v. Iowa Department of Job Service*, 431 N.W.2d 330 (Iowa 1988) and *O'Brien v. Employment Appeal Bd.*, 494 N.W.2d 660 (1993). In the case at hand, claimant has not established intolerable or detrimental working conditions. The claimant left employment due to general dissatisfaction with the company, work he was doing, and his perception that he might face a layoff in the future. Any reduction in the claimant's working hours were attributable to the claimant not reporting for scheduled work so that he could travel to another geographic area for personal reasons. But when he returned, the employer allowed Mr. Ramos to resume employment however claimant chose to quit employment shortly thereafter to seek other employment.

While the claimant's reason for leaving may have been good from a personal viewpoint, they were not good cause reasons attributable to the employer. Accordingly, the claimant is disqualified for unemployment insurance benefits until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount and is otherwise eligible.

DECISION:

The representatives' unemployment insurance decision date December 26, 2017, reference 01 is affirmed. Claimant left employment without good cause attributable to the employer. Unemployment insurance benefits are withheld until claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount and is otherwise eligible.

Terry P. Nice
Administrative Law Judge

Decision Dated and Mailed

tn/scn