

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

PRESTON TRAVIS

Claimant

APPEAL 18A-UI-10240-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

ALLIED SERVICES INC

Employer

OC: 06/03/18

Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant/appellant filed a timely appeal from the October 3, 2018 (reference 01) unemployment insurance decision that denied benefits based upon him voluntarily quitting work without good cause attributable to the employer. The parties were properly notified of the hearing. A telephone hearing was held on October 26, 2018. The claimant participated personally. The employer did not participate.

ISSUE:

Did claimant voluntarily quit the employment with good cause attributable to employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant was employed as a full-time temporary employee for this temporary employer. Harold Higgins was his supervisor. Claimant was placed at a job assignment as an operator with Kraft from July 2, 2018 through August 24, 2018, when his job assignment ended. The Kraft plant was located in South Carolina. Claimant was placed at another job assignment with Kraft at the same South Carolina location beginning August 27, 2018 until September 4, 2018, when he voluntarily quit.

When claimant accepted the new job assignment at Kraft, he was promised at least 60 hours of work per week at \$25.00 per hour. He accepted the position as a material handler. When he arrived back at Kraft for his second job placement, he was placed in the position of mixer instead of material handler. Both jobs paid \$25.00 per hour. However, his first week on the job, he was only given 48 hours per week instead of 60 hours per week of work.

On Wednesday, August 29, 2018, claimant contacted Mr. Higgins about the fact that he was not given at least 60 hours per week and was placed in the wrong job position. Mr. Higgins told claimant that Kraft could place him in any position they had business needs for and that there was nothing he could do about claimant only receiving 48 hours per week. Claimant needed to

work at least 60 hours per week in order to pay the necessary commuting and hotel living expenses near the job site.

The same week claimant started this second assignment at Kraft, claimant's spouse accepted a new job in North Carolina. Claimant and his spouse share one family vehicle. Claimant's spouse needed the family vehicle for her new job. Even if claimant would have received 60 hours per week as a material handler, he would not have been able to continue working at the job assignment at Kraft because his wife would have been using the only family transportation. Claimant decided to voluntarily quit to move with his wife.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

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.

A voluntary quitting means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer and requires an intention to terminate the employment. *Wills v. Emp't Appeal Bd.*, 447 N.W. 2d 137, 138 (Iowa 1989). 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); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992).

In this case, claimant voluntarily resigned. As such, this case must be analyzed as a voluntary quit case and not a discharge case. Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973).

Iowa Admin. Code r. 871-24.25(2) 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.

Claimant moved with his wife when she accepted another job. While claimant's leaving the employment may have been based upon good personal reasons, it was not for a good-cause reason attributable to the employer according to Iowa law. Benefits must be denied.

DECISION:

The October 3, 2018 (reference 01) unemployment insurance decision is affirmed. Claimant voluntarily quit employment without good cause attributable to the employer. Unemployment insurance benefits are denied until claimant has worked in and earned wages for insured work equal to ten times his weekly benefit amount after his separation date, and provided he is otherwise eligible.

Dawn Boucher
Administrative Law Judge

Decision Dated and Mailed

db/rvs