

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

---

**MICHAEL R HARMELINK**  
Claimant

**CHRISTENSEN BROS INC**  
Employer

**APPEAL 18A-UI-01237-H2T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 12/24/17**  
**Claimant: Appellant (4)**

---

Iowa Code § 96.5(1) – Voluntary Leaving

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the January 19, 2018, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on February 21, 2018. Claimant participated. Employer participated through Dwayne Christensen, Owner.

**ISSUE:**

Did the claimant voluntarily quit his employment on September 1, 2017 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 crane operator beginning in 1973, through January 1, 2018 when he chose to voluntarily retire.

The claimant was on his regular seasonal layoff from September 1, 2017 until January 1, 2018 when he voluntarily chose to retire. Continued work was available for the claimant if he had not chosen to retire.

Agency records indicate the claimant claimed and was credited on his debit card with unemployment insurance benefits for the two weeks ending January 30, 2018. The claimant is not eligible for any unemployment insurance benefits after his voluntarily retirement on January 1, 2018. The claimant was paid unemployment insurance benefits during his layoff period from September 17, 2017 through December 31, 2017. He is eligible for benefits during that time period.

**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 on January 1, 2018 when he chose to retire.

Iowa Code section 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(24) 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:

(24) The claimant left employment to accept retirement when such claimant could have continued working.

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).

While claimant's decision to quit may have been based upon good personal reasons, choosing to retire is not a good-cause reason attributable to the employer for leaving the employment. Benefits must be denied effective January 1, 2018.

**DECISION:**

The January 19, 2018, (reference 01) decision is modified in favor of the appellant. The claimant voluntarily left his employment without good cause attributable to the employer effective January 1, 2018. He was laid off due to lack of work from September 1, 2017 until January 1, 2018. Benefits are withheld after January 1, 2018 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/rvs