

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DAVID R MALIN**  
Claimant

**APPEAL NO. 12A-UI-03616-LT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**PELLA CORPORATION**  
Employer

**OC: 03/04/12**  
**Claimant: Appellant (2)**

Iowa Code § 96.5(1) – Voluntary Leaving

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the April 3, 2012 (reference 01) decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call on April 26, 2012. Claimant participated. Employer did not respond to the hearing notice instructions and did not participate. Claimant's Exhibit A was admitted to the record.

**ISSUE:**

Did claimant voluntarily leave 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 full time as a continuous improvement manager from 1969 and was separated from employment on November 30, 2011. Early retirement had been offered to everyone at Pella but he did not think his job was in jeopardy so opted not to accept that. After the early retirement deadline, his supervisor program manager Tony Hogan told him in October 2011 that his current position was eliminated and there was no other work for him within the company. The company did not provide these options in writing. The deadline for the retirement incentive program was extended until the Friday of that week specifically for claimant to apply for early retirement. He told Hogan that it appeared that the decision was being made for him and accepted the retirement incentive program because of the business conditions and lack of work for him.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant voluntarily left the employment with 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.

871 IAC 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 § 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:

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

Since claimant would have been laid off permanently or discharged if he had not taken early retirement, and continued work was not available, the forced retirement was a good cause reason attributable to the employer for leaving the employment. Benefits are allowed.

**DECISION:**

The April 3, 2012 (reference 01) decision is reversed. Claimant voluntarily left the employment with good cause attributable to the employer. Benefits are allowed, provided he is otherwise eligible and the benefits withheld shall be paid.

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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

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