

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**WILLIAM W BRUCE**  
Claimant

**APPEAL NO: 19A-UI-02388-JE-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**NEXTERA ENERGY DUANE ARNOLD LLC**  
Employer

**OC: 01/13/19**  
**Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Leaving  
Section 96.6-2 – Timeliness of Appeal

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the February 14, 2019, reference 02, decision that denied benefits. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on April 4, 2019. The claimant participated in the hearing. The employer did not respond to the hearing notice and did not participate in the hearing. Department's Exhibit D-1 was admitted into evidence.

**ISSUE:**

The issues are whether the claimant's appeal is timely and whether he voluntarily left his employment with good cause attributable to the employer.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: A disqualification decision was mailed to the claimant's last known address of record on February 14, 2019. The claimant received the decision. The decision contained a warning that an appeal must be postmarked or received by the Appeals Section by February 24, 2019. That date fell on a Sunday so the appeal was due February 25, 2019. The appeal was not filed until March 19, 2019, which is after the date noticed on the disqualification decision. The claimant left for Phoenix and Houston February 15, 2019, to visit his children and grandchildren and did not return until March 15, 2019. Under these circumstances, the administrative law judge must conclude the claimant's appeal is timely as he was out of state when the decision arrived and on the appeal due date and filed an appeal when he returned.

The claimant was employed as a full-time electrical foreman for Nextera Energy from April 9, 1990 to December 31, 2018. He voluntarily left his employment to accept early retirement as the employer was attempting to reduce staff because the plant will be closing in the next one and one-half years. The claimant was not forced to leave his employment.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment without good cause attributable to the employer.

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(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.

The claimant had the option of accepting an early retirement offer or to continue working and chose early retirement. While the plant will eventually close, the claimant was not laid off due to a lack of work or due to a staff reduction but instead chose to leave when offered a retirement package. Under Iowa law the claimant's actions are considered a voluntary leaving of employment without good cause attributable to the employer. Therefore, benefits must be denied.

**DECISION:**

The February 14, 2019, reference 02, decision is affirmed. The claimant's appeal is timely and he voluntarily left his employment without good cause attributable to the employer. Benefits are withheld 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.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

je/scn