

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**RUSTY L SINCLAIR**  
Claimant

**THE WALDINGER CORPORATION**  
Employer

**APPEAL 15O-UI-02886-LT**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 11/16/14**  
**Claimant: Appellant (1)**

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Iowa Code § 96.5(1) – Voluntary Quitting

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the December 5, 2014 (reference 01) unemployment insurance decision that denied benefits based upon voluntarily quitting the employment. The parties were properly notified about the hearing. A telephone hearing was held on January 8, 2015. Claimant participated. Employer participated through human resource manager Nate Cloe. Department's Exhibit D-1 was received. The EAB remanded for a decision on the separation issue after reversing the ALJ decision that found the appeal untimely. No further hearing was held as evidence was taken on the separation at the hearing on January 8, 2015.

**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 full time as a quality control auditor and was separated from employment on November 19, 2014. His last day of work was November 5, 2014; when he gave notice of his intention to quit to move and open a food business. The employer was aware he put his house on the market. Vice president Dan Carter and Cloe met with claimant about his resignation notice and asked if he had recent concerns. He said he did not nor did claimant indicate other reasons in his resignation letter. His resignation was accepted, he was paid for the two-week notice period and was not allowed to work thereafter. On November 5 Reefer met with claimant and told him he would not receive a raise because of his "attitude" and he "was not doing his job." Claimant had expressed various concerns and complaints to the employer via Cloe, who had been in his position since January 1, 2013. Claimant had not told him he had concerns about supervisor Seth who was making racial comments about others and liked to talk about guns. On July 13, 2012 he told Cloe in an email that things were okay between them. In early 2014 he believed a janitor was following him on Seth's behalf. In June 2014 he thought Seth was attempting to sabotage his vacation plans but received a written warning upon his return for refusing assigned work. Claimant took time off for the birth of a grandson on August 30, 2013 and was upset because the employer required him to use vacation time rather than PTO without having to deduct vacation time.

## **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was without 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.

Iowa Admin. Code r. 871-24.25(2), (19), (21), and (22) provide:

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.

(19) The claimant left to enter self-employment.

(21) The claimant left because of dissatisfaction with the work environment.

(22) The claimant left because of a personality conflict with the supervisor.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2).

The claimant's decision to quit to move and open a food business were not good cause reasons attributable to the employer for leaving. Nor was his disagreement with his performance review or his supervisor. Claimant argued he was in fear for his life because of a supervisor's talk about guns but worked there two more years without reporting concerns to Cloe. Thus, the employer's evidence is more credible than the testimony of claimant. Further, given the stale dates of the other complaints, they are not individually addressed as claimant acquiesced to them by not raising concerns with her supervisor or quitting earlier when they arose.

**DECISION:**

The December 5, 2014 (reference 01) unemployment insurance decision is affirmed. Claimant voluntarily left the 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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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

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