

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CHRISTOPHER A BISSELL
Claimant

IES COMMERCIAL INC
Employer

APPEAL 22A-UI-01112-S2-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 10/24/21
Claimant: Appellant (1)

Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed an appeal from the December 6, 2021, (reference 01) unemployment insurance decision that denied benefits based upon his voluntary quit. The parties were properly notified about the hearing. A telephone hearing was held on February 2, 2022. Claimant Christopher A. Bissell participated and testified. Employer IES Commercial, Inc. did not call the toll-free number listed on the hearing notice at the time of the hearing and 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 worked for employer from May 6, 1985, until September 9, 2021, when he quit. Claimant worked full-time as a general foreman.

Prior to obtaining his position as a general foreman, claimant worked as a project manager. He preferred doing the project manager position, but employer was short staffed and transferred claimant to the foreman position in 2018. Claimant found the foreman job to be stressful because he was training young employees to do dangerous power line work. Claimant asked employer to consider him for a project manager position when one opened up, but he was passed over for the position on at least one occasion. Claimant also traveled for work, and he became tired of living out of suitcase as he had travelled during most of his employment.

Claimant suffered a heart attack in 2017 and he believed the stress of the position was not good for his health. His medical provider did not tell him he needed to quit working. Because of the stressful nature of the job and the constant travel, claimant gave his verbal resignation to employer on September 9, 2021. His job was not in jeopardy.

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 section 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:

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

871 IAC 24.25(35) 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:

(35) The claimant left because of illness or injury which was not caused or aggravated by the employment or pregnancy and failed to:

(a) Obtain the advice of a licensed and practicing physician;

(b) Obtain certification of release for work from a licensed and practicing physician;

(c) Return to the employer and offer services upon recovery and certification for work by a licensed and practicing physician; or

(d) Fully recover so that the claimant could perform all of the duties of the job.

The court in *Gilmore v. Empl. Appeal Bd.*, 695 N.W.2d 44 (Iowa Ct. App. 2004) noted that:

"Insofar as the Employment Security Law is not designed to provide health and disability insurance, only those employees who experience illness-induced separations that can fairly be attributed to the employer are properly eligible for unemployment benefits." *White v. Emp't Appeal Bd.*, 487 N.W.2d 342, 345 (Iowa 1992) (citing *Butts v. Iowa Dep't of Job Serv.*, 328 N.W.2d 515, 517 (Iowa 1983)).

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). 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).

Claimant's verbal resignation is both evidence of his intention to sever the employment relationship and an overt act of carrying out his intention. While claimant became frustrated with the nature of his work, the claimant has not demonstrated that his leaving was with good cause attributable to the employer. He testified his job caused him stress and aggravated an underlying medical condition. Claimant was not advised by a medical provider to resign. Further, in addition to the stress, claimant left his employment because he was tired of being of traveling, but the travel was a known requirement of the job and one that claimant had done during his entire employment. Claimant has demonstrated that he was dissatisfied with his work environment, not that the work environment was sufficiently intolerable or detrimental as to justify his resignation. While claimant's leaving 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 are denied.

DECISION:

The December 6, 2021, (reference 01) unemployment insurance decision is affirmed. The claimant 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.



Stephanie Adkisson
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February 23, 2022
Decision Dated and Mailed

sa/mh