

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MIGUEL A HERNANDEZ**  
Claimant

**APPEAL NO. 15A-UI-13003-S1-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**JENSEN BUILDERS LTD**  
Employer

**OC: 11/01/15**  
**Claimant: Appellant (1)**

Section 96.5-1 - Voluntary Quit

**STATEMENT OF THE CASE:**

Miguel Hernandez (claimant) appealed a representative's November 23, 2015, decision (reference 01) that concluded he was not eligible to receive unemployment insurance benefits after his separation with Jensen Builders (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for December 14, 2015. The claimant participated personally. The employer did not provide a telephone number where it could be reached and therefore, did not participate in the hearing.

**ISSUE:**

The issue is whether the claimant was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired in January 2015, as a full-time iron worker. The claimant had four children and his five year old was frequently sick. The claimant and the children's mother worked daytime hours. The claimant looked for work at other companies where he could work a second or third shift. The claimant and the mother of the children wanted to share the care of the children. They knew it was difficult to find childcare for their daughter who was repeatedly ill.

The claimant worked through August 27, 2015. The employer did not have work on August 28, 2015, because it rained. The claimant's daughter was hospitalized from August 31 through September 2, 2015, and the claimant could not work.

The claimant applied for a job as a fork-lift driver at another company for second or third shift work. He thought they were hiring and stopped appearing for work with the employer after September 2, 2015. Later, the claimant discovered the other company would not be hiring until January 2016. Continued work was available with the employer had the claimant appeared for work.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant is not eligible to receive unemployment insurance benefits.

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(3) 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:

(3) The claimant left to seek other employment but did not secure employment.

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). The claimant's intention to voluntarily leave work was evidenced by the claimant's actions. When an employee quits work to seek other employment but no employment is obtained, his leaving is without good cause attributable to the employer. The claimant left work but no evidence was presented at the hearing that other employment was obtained. His leaving was without good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

**DECISION:**

The representative's November 23, 2015, decision (reference 01) is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount, provided the claimant is otherwise eligible.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

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