

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHRIS A MARCOV

Claimant

APPEAL NO: 13A-UI-07487-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ARENDS SANITATION INC

Employer

OC: 06/02/13

Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Chris A. Marcov (claimant) appealed a representative's June 19, 2013 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits after a separation from employment with Arends Sanitation, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 30, 2013. The claimant participated in the hearing. Carl Arends appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit for a good cause attributable to the employer?

OUTCOME:

Affirmed. Benefits denied.

FINDINGS OF FACT:

The claimant started working for the employer on September 1, 2012. He worked full time as a driver and laborer. His last day of work was May 20, 2013. He voluntarily quit on May 21.

The claimant had a work-related knee injury and had been on work restrictions under workers' compensation coverage under which he could only drive and not do any labor. On at least May 20 the claimant had gotten out and assisted the other worker with a load. The business owner, Arends, found out after the fact and chastised the claimant for working outside his restrictions. The claimant was upset that he had been chastised, because he was going to be going to the doctor the next day and believed he was going to be released to perform the labor as long as it was no more than one hour on and one hour off. The claimant in fact was then released under those conditions. He reported in for work on May 21 and asked Arends if he could go ahead and perform labor that day. Arends, standing about four feet away from the

claimant, was still somewhat upset about the claimant working outside the specified restrictions the prior day; he threw his hands up and said, somewhat loudly, "Do whatever you want."

The claimant felt that Arends' actions were physically threatening; he responded, "Well, then I'll quit." He then proceeded to leave the business. The claimant's job was not otherwise in any jeopardy had he stayed and continued working.

REASONING AND CONCLUSIONS OF LAW:

If the claimant voluntarily quit his employment, he is not eligible for unemployment insurance benefits unless it was for good cause attributable to the employer. Iowa Code § 96.5-1. Rule 871 IAC 24.25 provides that, 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. A voluntary leaving of employment requires an intention to terminate the employment relationship and an action to carry out that intent. *Bartelt v. Employment Appeal Board*, 494 N.W.2d 684 (Iowa 1993); *Wills v. Employment Appeal Board*, 447 N.W.2d 137, 138 (Iowa 1989). The claimant did express or exhibit the intent to cease working for the employer and did act to carry it out. The claimant would be disqualified for unemployment insurance benefits unless he voluntarily quit for good cause.

The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3), (4). Leaving because of a dissatisfaction with the work environment or a personality conflict with a supervisor is not good cause. 871 IAC 24.25(21), (22). Quitting because a reprimand has been given is not good cause. 871 IAC 24.25(28). The claimant has not provided sufficient evidence to conclude that a reasonable person would find the employer's work environment detrimental or intolerable. *O'Brien v. Employment Appeal Board*, 494 N.W.2d 660 (Iowa 1993); *Uniweld Products v. Industrial Relations Commission*, 277 So.2d 827 (FL App. 1973). Rather, his complaints do not surpass the ordinary tribulations of the workplace. The claimant has not satisfied his burden. Benefits are denied.

DECISION:

The representative's June 19, 2013 decision (reference 01) is affirmed. The claimant voluntarily left his employment without good cause attributable to the employer. As of May 21, 2013, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs