

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

WILLIAM SERNA
Claimant

APPEAL NO: 20A-UI-03153-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

DB&J ENTERPRISES INC
Employer

OC: 06/16/19
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the April 10, 2020, reference 06, decision that denied benefits. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on May 7, 2020. The claimant participated in the hearing. Alison McAnich, Office Manager, participated in the hearing on behalf of the employer. Employer's Exhibit One was admitted into evidence.

ISSUE:

The issue is whether the claimant 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: The claimant was employed as a full-time maintenance person for DB&J Enterprises (McDonalds) from June 27, 2019 to December 29, 2019. He voluntarily left his employment because he did not want to work Sundays.

At the time of hire the claimant requested Sundays off because he has visitation with his children and did not want to drive that early in the morning from Nevada, Iowa, especially in inclement weather.

The claimant worked Sunday, July 21, 2019; Sunday, August 4, 2019; Sunday, August 25, 2019; Sunday, September 1, 2019; Sunday, September 15, 2019; Sunday, October 13, 2019; Sunday, October 27, 2019; Sunday, November 3, 2019; Sunday, November 10, 2019; Sunday, November 17, 2019; Sunday, November 24, 2019; Sunday, December 1, 2019; and Sunday, December 8, 2019 (Employer's Exhibit One). A new general manager started in October 2019 and the claimant restated his objection to working Sundays.

The claimant was a no-call/no-show September 23, 2019; December 27, 2019; and December 29, 2019; and the employer determined he voluntarily quit his job.

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 section 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.

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. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2.

The claimant's resignation seven months after substantial change in the contract of hire was a disqualifiable event because the claimant was held to have acquiesced in the changes. *Olson v. EAB*, 460 N.W. 2d 865 (Iowa App. 1990). Of the 13 Sundays the claimant worked between July 21 and December 8, 2019, eight occurred after the new general manager started. The claimant did not voice his objections under the previous general manager despite having the same issues with working Sundays. Additionally, he knew the driving distance and weather possibilities when he accepted the position. The claimant effectively agreed to work Sundays by working 13 Sundays before voluntarily quitting his job. His objection to working Sundays is not considered a good-cause reason for voluntarily quitting attributable to the employer as that term is defined by Iowa law. Therefore, benefits must be denied.

Note to Claimant: This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits due to disqualifying separations, but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.

DECISION:

The April 10, 2020, reference 06, 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.



Julie Elder
Administrative Law Judge

May 13, 2020
Decision Dated and Mailed

je/scn