

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**JAMES E BLACKFORD**  
Claimant

**LIBERTY HOLDINGS INC**  
Employer

**APPEAL 15A-UI-05772-EC-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 12/21/14**  
**Claimant: Appellant (1)**

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Iowa Code § 96.5(1) – Voluntary Quit  
Iowa Admin. Code r. 871-24.25(37) – Resignation Accepted  
Iowa Admin. Code r. 871-24.25(24) – Accept Retirement

**STATEMENT OF THE CASE:**

The claimant/appellant, James Blackford, filed an appeal from the May 14, 2015, (reference 01) unemployment insurance decision that denied benefits based upon a voluntary quit. The parties were properly notified about the hearing. A telephone hearing was held on June 15, 2015. The claimant participated. The employer, Liberty Holdings Inc., participated through Bob Freeman, Controller/HR.

**ISSUE:**

Was the separation from employment a voluntary quit with or without good cause attributable to the 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 ready mix driver from January 3, 2005, until this employment ended on or about April 15, 2015, when he voluntarily quit his employment, communicating his intention to quit to Bob Freeman and Jeff Tucker. They encouraged him to stay. He responded that he was quitting in order to immediately receive the funds from his 401k account, and that he was quitting. The employer then accepted his resignation.

The claimant and his employer discussed a possible option, that the claimant could leave employment, receive his 401k funds, and then be rehired. The employer then consulted their attorney, who advised against this possible plan. Mr. Freeman communicated this information to the claimant. The claimant still insisted on leaving his employment and receiving his 401k retirement funds right away. The claimant received those funds.

**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(37) and (24) 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:

(37) The claimant will be considered to have left employment voluntarily when such claimant gave the employer notice of an intention to resign and the employer accepted such resignation. This rule shall also apply to the claimant who was employed by an educational institution who has declined or refused to accept a new contract or reasonable assurance of work for a successive academic term or year and the offer of work was within the purview of the individual's training and experience.

(24) The claimant left employment to accept retirement when such claimant could have continued working.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). 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 undisputed evidence presented here clearly established that the claimant voluntarily resigned or quit his employment. His employer accepted his resignation, after clarifying his intention to quit and confirming that he could not be hired back after he received his retirement funds.

Although the claimant's decision to leave his employment 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 must be denied.

**DECISION:**

The May 14, 2015, (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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Emily Gould Chafa  
Administrative Law Judge

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Decision Dated and Mailed

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