

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

LARRY R HOSKINS
Claimant

APPEAL NO. 18A-UI-12248-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TRADESMEN INTERNATIONAL LLC
Employer

OC: 11/04/18
Claimant: Appellant (1)

Iowa Code Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Larry Hoskins filed a timely appeal from the December 14, 2018, reference 01, decision that held he was disqualified for benefits and the employer's account would not be charged for benefits, based on the deputy's conclusion that Mr. Hoskins voluntarily quit on August 14, 2018 without good cause attributable to the employer. After due notice was issued, a hearing was held on January 10, 2019. Mr. Hoskins participated. Cody Pech represented the employer. The hearing in this matter was consolidated with the hearing in Appeal Numbers 18A-UI-12249-JTT and 18A-UI-12250-JTT. Exhibit A and Department Exhibits D-2, D-3 and D-4 were received into evidence. The administrative law judge took official notice of the Agency's record of benefits disbursed to the claimant (DBRO) and of the claimant's weekly claims (KCCO).

ISSUE:

Whether Mr. Hoskins voluntarily quit without good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Tradesmen International, L.L.C. supplies construction workers and tradesmen to client businesses for use on clients' construction jobsites. Larry Hoskins commenced his employment with Tradesmen in May 2018. Though Mr. Hoskins is a carpenter by trade, Mr. Hoskins' Tradesmen assignments included both carpentry work and non-carpentry work. Tradesmen International Sales Representative Rich Ketcham was Mr. Hoskins' supervisor at Tradesmen.

Mr. Hoskins most recently performed work for Tradesmen in a full-time, temporary assignment with Kuhl Grain Systems on a jobsite in Preemption, Illinois. Mr. Hoskins has at all relevant times resided in Rock Island, Illinois. Preemption is 14.5 miles from Rock Island. Mr. Hoskins commuted in his own vehicle from Rock Island to Preemption. Mr. Hoskins began the assignment on July 24, 2018. Mr. Hoskins' work on the assignment included assisting with concrete work. Kuhl Grain Systems owners Brad Kuhl and Rob Kuhl supervised Mr. Hoskins' work on the project.

On Thursday, July 26, 2018, Mr. Hoskins suffered a chemical burn on his leg in the course of assisting with a concrete pour at the Kuhl jobsite in Preemption. The injury occurred when wet cement entered Mr. Hoskins' boot. A caustic chemical present in the wet cement caused a chemical burn on Mr. Hoskins leg. Mr. Hoskins was not immediately aware there was a problem and continued to work for another hour before he experienced a burning sensation on his leg. Mr. Hoskins reported the chemical burn to the jobsite supervisor, who assigned Mr. Hoskins to other work duties for the remainder of the work day. Mr. Hoskins did not immediately seek medical evaluation or treatment. Mr. Hoskins reported the injury to Mr. Ketcham. Mr. Ketcham gave Mr. Hoskins an incident report form. Mr. Ketcham directed Mr. Hoskins to take the form to the Kuhls, to have the Kuhls complete the form, and to return the form to Mr. Ketcham. Mr. Hoskins presented the form to Brad Kuhl and returned the completed form to Mr. Ketcham. Mr. Hoskins' presentation of the completed injury report to Mr. Ketcham did not prompt the employer to arrange for medical evaluation of Mr. Hoskins' leg injury. On July 31, 2018, Mr. Hoskins sought evaluation of and treatment for his leg injury on his own at an urgent care clinic. The medical provider released Mr. Hoskins to return to work, but instructed Mr. Hoskins to apply a prescription ointment to his leg and to keep his wound covered with gauze. The medical provider further instructed Mr. Hoskins to avoid exposure to peroxide.

On August 1, 2018, Mr. Hoskins returned to work on the Kuhl Preemption project. On that morning, Mr. Ketcham sent a text message to Mr. Hoskins to confirm that Mr. Hoskins was back on the job site. Mr. Hoskins sent a text message request for a copy of the injury report so that his girlfriend could collect the report and present it to the medical provider and/or health insurer. Mr. Ketcham inquired where Mr. Hoskins had sought treatment. Mr. Ketcham sent a text message to Mr. Hoskins indicating that Mr. Hoskins would have to submit to drug testing before the employer could facilitate further evaluation and/or treatment of Mr. Hoskins' leg injury. Mr. Hoskins underwent a drug test on the morning of August 2, 2018. The drug test was negative. Mr. Hoskins was concerned that his injury was not healing. Mr. Hoskins requested Friday, August 3 off and Mr. Ketcham approved that request. Mr. Hoskins returned to work at the Preemption Kuhl jobsite on Monday, August 6, 2018. Mr. Ketcham sent a text message to Mr. Hoskins to confirm that he was back to jobsite.

On August 7, 2018, Mr. Hoskins sent a text message to Mr. Ketcham to let him know he would not be reporting for work that day. Mr. Hoskins did not return for further work on the Kuhl site in Preemption, though Kuhl Grain Systems and Tradesmen International continued to have work for him on that assignment at the time of the separation. On August 8, 2018, Mr. Ketcham sent Mr. Hoskins a text message asking for Mr. Hoskins' weekly work hours. Mr. Hoskins and Mr. Ketcham engaged in further text message correspondence on August 8 and 9, 2018.

Mr. Hoskins ended up separating from the assignment, and from the employment, for reasons unrelated to the chemical burn on his leg. Mr. Hoskins notified the employer that he needed to travel to Detroit, Michigan to care for his mother, who suffers from dementia. Shortly after Mr. Hoskins went off work, Mr. Ketcham contacted Mr. Hoskins to see whether Mr. Hoskins was able to return to work. Mr. Hoskins told Mr. Ketcham that he needed another week or two to make arrangements for his mother. Toward the end of August, Mr. Hoskins had still not returned to work. At that time, Mr. Ketcham made further contact with Mr. Hoskins regarding returning to work. By that time, Mr. Hoskins had made arrangements for his mother and no longer needed to assist his mother. However, Mr. Hoskins told Mr. Ketcham that he was experiencing car trouble and lacked transportation to the job site. Mr. Hoskins did not thereafter attempt to return to the employment.

REASONING AND CONCLUSIONS OF LAW:

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 698, 612 (Iowa 1980) and *Peck v. EAB*, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

Iowa Code section 96.5(1)c 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. But the individual shall not be disqualified if the department finds that:

c. The individual left employment for the necessary and sole purpose of taking care of a member of the individual's immediate family who was then injured or ill, and if after said member of the family sufficiently recovered, the individual immediately returned to and offered the individual's services to the individual's employer, provided, however, that during such period the individual did not accept any other employment.

Iowa Admin. Code r. 871-24.25(1) 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:

(1) The claimant's lack of transportation to the work site unless the employer had agreed to furnish transportation.

The weight of the evidence establishes a voluntary quit without good cause attributable to the employer. Mr. Hoskins' separation from the employment was not based on the chemical burn. Instead, Mr. Hoskins voluntarily separated from the employment on or about August 7, 2018, based on his need to care for his mother who was ill and who resided in another state. Later in August 2018, when Mr. Hoskins no longer needed to care for his mother, he did not promptly return to the employer. When the employer inquired at that time about his return, Mr. Hoskins cited transportation issues as the basis for not returning to the employment. Because Mr. Hoskins voluntarily quit the employment without good cause attributable to the employer, Mr. Hoskins is disqualified for benefits until he has worked in and been paid wages for insured work equal to 10 times his weekly benefit amount. Mr. Hoskins must meet all other eligibility requirements. The employer's account shall not be charged.

DECISION:

The December 14, 2018, reference 01, decision is affirmed. The claimant voluntarily quit the employment without good cause attributable to the employer. The quit was effective on or about August 7, 2018. The claimant is disqualified for benefits until he has worked in and been paid wages for insured work equal to 10 times his weekly benefit amount. The claimant must meet all other eligibility requirements. The employer's account shall not be charged.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/rvs