

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JORDAN KOCH
Claimant

APPEAL NO: 14A-UI-11352-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

DRISH CONSTRUCTION INC
Employer

OC: 10/05/14
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the October 30, 2014, reference 02, decision that denied benefits. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on November 20, 2014. The claimant participated in the hearing. Deb Chance, Office Manager, participated in the hearing on behalf of the employer.

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 laborer with a CDL for Drish Construction from September 26, 2014 to October 3, 2014. He voluntarily left his employment because he was notified he had to have emergency eye surgery September 29, 2014, and knew he would be absent for several weeks, and the employer notified him October 2, 2014, its insurance carrier would not cover him to work as a laborer with a CDL due to his driving record but offered him a position as a laborer.

On September 29, 2014, the claimant texted the owner of the company stating he was having emergency eye surgery and would be off work for several weeks recovering. On October 2, 2014, the employer's insurance carrier notified the employer it could not cover the claimant as a laborer with a CDL because of his driving record. That eliminated the employer's ability to direct the claimant to move heavy equipment from site to site, move semi-trailers carrying the heavy equipment and to fuel equipment, all essential functions of the laborer with CDL position. The employer offered the claimant an opportunity to work as a laborer without a CDL but the claimant declined that position because that is not the type of work he wanted to perform. The claimant chose to voluntarily leave his position at that time.

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 § 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.

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 was required to have a CDL to perform the essential functions of his job as a laborer with CDL. Shortly after the claimant was hired, the employer was informed its insurance carrier would not insure the claimant due to his driving history. As a result, the employer could not allow the claimant to work as a laborer with CDL but did offer him a position as a laborer. The claimant was not interested in being a laborer and chose to resign rather than work as a laborer. Under these circumstances, the administrative law judge must conclude that the claimant has not established a good cause reason attributable to the employer for his leaving as required by Iowa law. Therefore, benefits must be denied.

DECISION:

The October 30, 2014, reference 02, 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

Decision Dated and Mailed

je/pjs