

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JERRY W WARE
Claimant

CRAMER AND ASSOCIATES INC
Employer

APPEAL 15A-UI-11878-SC-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 09/27/15
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

Jerry Ware (claimant) filed an appeal from the October 14, 2015 (reference 01) unemployment insurance decision that denied benefits based upon the determination he failed to provide sufficient evidence to show he voluntarily quit his employment with good cause attributable to Cramer and Associates, Inc. (employer). The parties were properly notified about the hearing. A telephone hearing was held on November 10, 2015. The claimant participated on his own behalf. The employer participated through Owner Robert Cramer.

ISSUE:

Did the claimant voluntarily quit the 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 full time as a laborer beginning on February 02, 2015 and was separated from employment on September 18, 2015; when he quit. The claimant worked on municipal bridge construction projects and reported to Anthony Cramer (Anthony), Owner Robert Cramer's nephew.

In June 2015 while working in Calumet, Iowa, one of the claimant's co-workers drew a swastika and hooded figure which he shared with the claimant. The claimant reported the incident to Anthony who told the employee that was not appropriate. There were no further incidents with that employee.

In late July 2015, the claimant began working on the employer's Davenport project. The claimant noticed that Anthony seemed to be following him. When he would go on break, Anthony would arrive at the same time and place. Additionally, when he would go to use the bathroom, Anthony would be waiting outside. Anthony, on a couple of occasions, asked the claimant what he was doing in the bathroom.

At the end of August or beginning of September, the claimant met with owners Dan and Robert Cramer to discuss his hypertension and request time off. He was granted the time off and when he was able to work again, he was placed on the Cedar Rapids project.

While on the Cedar Rapids project, Anthony began following the claimant around the jobsite. On September 18, 2015, the claimant contacted Anthony and told him that he was "tired of the bullshit" and quit his employment. The claimant did not report to Dan or Robert Cramer any of the issues he was having with Anthony.

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. Benefits are denied.

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(21) and (22) 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 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:

(21) The claimant left because of dissatisfaction with the work environment.

(22) The claimant left because of a personality conflict with the supervisor.

Iowa Admin. Code r. 871-24.26(4) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(4) The claimant left due to intolerable or detrimental working conditions.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973). 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 claimant's decision to quit because he disagreed with his employer following him around the job site was not for a good cause reason attributable to the employer. Employers are allowed to monitor their employees and their work. Anthony was the foreman at the project and the jobsite was limited to a bridge. Anthony's conduct of being in the same place as the claimant does not rise to the level of detrimental or intolerable. It is unreasonable to believe that Anthony's conduct was so intolerable or detrimental that the claimant would quit, but he would not tell the owners about the conduct for fear of losing his job just two weeks prior. The claimant's argument that he failed to tell Dan and Robert Cramer about Anthony's conduct when meeting with them privately because he feared losing his job is not persuasive. There is no indication that Anthony's conduct changed or altered over that two-week period following his meeting with Dan and Robert Cramer. While it is apparent the claimant did not like the work environment and had a personality conflict with his supervisor, these are not good cause reasons attributable to the employer under Iowa law. Accordingly, benefits are denied.

DECISION:

The October 14, 2015 (reference 01) unemployment insurance decision is affirmed. The 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.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

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