

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**DAVID LEE**  
Claimant

**PER MAR SECURITY & RESEARCH CORP**  
Employer

**APPEAL 16A-UI-06723-DB-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 05/22/16**  
**Claimant: Appellant (1)**

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Iowa Code § 96.5(1) – Voluntary Quitting  
Iowa Code § 96.5(2)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

The claimant/appellant filed an appeal from the June 9, 2016 (reference 01) unemployment insurance decision that denied benefits based upon him voluntarily quitting work to move to another locality. The parties were properly notified of the hearing. A telephone hearing was held on July 22, 2016. The claimant, David Lee, participated personally. The employer, Per Mar Security & Research Corp., participated through Operations Manager Justin Ellyson.

**ISSUES:**

Did claimant voluntarily quit the employment with good cause attributable to employer?  
Was the claimant discharged for disqualifying job-related misconduct?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time as a security guard. He began working for this employer in August of 2014 and his employment ended on May 23, 2016. His job duties included assisting in campus security issues. His immediate supervisor was Thomas Leach. Claimant gave a verbal resignation to Mr. Leach and was allowed to work until May 23, 2016, which was the last day of his notice period. Claimant voluntarily quit working in order to move with his wife to Nebraska. His wife had secured a new job in Nebraska. Had he not quit, claimant would not have been laid off or discharged from employment. There was continuing work available to him had he not voluntarily quit his employment.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes as follows:

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.

A voluntary quitting means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer and requires an intention to terminate the employment. *Wills v. Emp't Appeal Bd.*, 447 N.W. 2d 137, 138 (Iowa 1989). 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). Where a claimant walked off the job without permission before the end of his shift saying he wanted a meeting with management the next day, the Iowa Court of Appeals ruled this was not a voluntary quit because the claimant's expressed desire to meet with management was evidence that he wished to maintain the employment relationship. Such cases must be analyzed as a discharge from employment. *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992).

Claimant had an intention to quit and carried out that intention by giving a verbal resignation and working until the last date of his notice period. Because claimant voluntarily quit, he 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).

In this case, claimant voluntarily quit in order to accompany his spouse to Nebraska. The move to Nebraska was due to claimant's spouse accepting a position Wayne State College.

Iowa Admin. Code r. 871-24.25(10) 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:

(10) The claimant left employment to accompany the spouse to a new locality.

While claimant's leaving the 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 withheld.

**DECISION:**

The June 9, 2016, (reference 01) unemployment insurance decision is affirmed. Claimant voluntarily quit employment without good cause attributable to the employer. Unemployment insurance benefits shall be withheld in regards to this employer until such time as claimant is deemed eligible.

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Dawn Boucher  
Administrative Law Judge

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Decision Dated and Mailed

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