

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**JEREMY D HUNTER**  
Claimant

**BRUGGEMAN LUMBER INC**  
Employer

**APPEAL NO. 17A-UI-08160-B2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 07/16/17**  
**Claimant: Appellant (1)**

Iowa Code § 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated August 7, 2017, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on August 29, 2017. Claimant participated and had witness Jessica Klever and Attorney Matthew Denning. Employer participated by Vic Boeding, Mitzi Hoeger, and Roger Gibbs. Claimant's Exhibits A-C were admitted into evidence.

**ISSUE:**

The issue in this matter is whether claimant quit for good cause attributable to employer.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on July 7, 2017. Job separation in this matter took place on July 11, 2017 after claimant had not returned to work and had been a no-call/no-show for work for three consecutive days.

Claimant worked as a sawyer for employer. While operating a saw on July 7, 2017 the saw band broke and the saw carriage went into a wall. Employer repaired the band and the blade. Claimant stated that while operating the saw with the new blade, the saw didn't appear to be operating properly. Employer had the saw evaluated and found it to be properly functioning, although there were cracks in the band. Claimant stated that he had worries about potential injuries to himself or others if he were to continue using this equipment. Employer stated that no one had ever been injured using the piece of equipment used by claimant although there had been many times that bands and blades had broken.

After the band had been replaced, claimant asked if he could continue working another job rather than operating the saw. Employer denied claimant's request and stated that he needed to keep operating the saw. Claimant stated, "I don't know if I can do this anymore," and walked off the job.

Claimant stated that he called employer multiple times over the next few days, but couldn't remember who he spoke with and never spoke with a manager or owner. Claimant said he was trying to find out when he could come back to work. Employer had the only woman in the office testify that claimant did not call, and the manager and owner testified that they did not receive calls or messages from the claimant within the next week after he'd walked away.

Claimant stated that he did not quit his job. Employer never called him to tell him to return to work. Claimant argued that employer did not have the equipment he was to use working properly and stated that he heard it took four weeks before the saw claimant was using was outfitted properly after claimant quit. Employer denied these allegations.

Employer said that claimant walked off the job saying that he couldn't do it anymore. Then claimant had no contact with employer for the next three days. Employer then saw claimant as having quit for being a no-call/no-show for 3 days.

### **REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 96.5(1) 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.

Iowa Admin. Code r. 871-24.25(4) 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:

(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because claimant was concerned regarding the saw that he was operating.

Whereas operating a saw is inherently dangerous, employer has an excellent safety record and the saw operated by claimant had not historically yielded any injuries, although the band and blade had been broken many times. Claimant certainly can have a personal belief that the operation of this saw was too dangerous, but claimant has not proven that this was the case.

Regarding the quit / termination aspect of the separation, claimant never received any direct notice that he was terminated. Claimant's testimony that he was told by coworkers not to come

back to work, fails on multiple fronts. Claimant was not told by anyone in a supervisory position that he was not to return to work, and no one who told claimant that he was not to return to work testified at the hearing.

Claimant's lack of leaving messages with employer, combined with an inability to state who he spoke with when he'd allegedly called after he walked off the job calls into question the verity of his statements. Combining all of these factors, claimant did not show that he was terminated and did not show that his quit was with good cause attributable to employer. Benefits are denied.

**DECISION:**

The decision of the representative dated August 7, 2017, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

---

Blair A. Bennett  
Administrative Law Judge

---

Decision Dated and Mailed

bab/rvs