

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**JOSH L DAVIDSON**  
Claimant

**EBE PROPERTIES LLC**  
Employer

**APPEAL 15A-UI-00141-JCT**  
**ADMINISTRATIVE LAW JUDGE**  
**DECISION**

**OC: 12/07/14**  
**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 filed an appeal from the December 31, 2014 (reference 01) unemployment insurance decision that denied benefits based upon separation. The parties were properly notified about the hearing. A telephone hearing was held on January 29, 2015. The claimant participated. The employer participated through Jeff Schachtner.

**ISSUE:**

Did the claimant voluntarily quit with good cause attributable to his employer or was he discharged for disqualifying job related misconduct?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed part time as a maintenance worker, and was separated from employment on November 18, 2014 when he walked off the job after refusing to retile the shower. The claimant was never told he was fired nor did he return to work after November 18, 2014.

On November 18 the claimant went to the garage to obtain the tile saw needed to complete his shower retiling assignment. The tile saw was not easily accessible but blocked by appliances and garbage, based on a co-worker dumping items in the pathway. The claimant had recently cleaned the garage and was mad his co-worker messed it up. The claimant took a photograph and sent it to his manager, Mr. Schachtner. They exchanged text messages that ended with the claimant refusing to move items needed to retile the shower and Mr. Schachtner telling him to go home then and that the tub would be retiled another day.

The claimant did not work a set shift, in the sense he was expected to show up each day at a designated time and place. The claimant or the employer would text each other prior to the claimant driving into West Des Moines to discuss what work to do. The claimant never showed up to work again and never contacted the employer. The claimant maintains there was not work for him to do. The employer never reached out to the claimant because in the past,

approximately six different times, the claimant had gotten mad on the job, left the job site, and then returned back to work. The employer did not believe the events on November 18, 2014 were any different than the claimant's past behavior. When the claimant did not work, the employer deemed he had walked off his shift and quit.

**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.

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(27) 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:

(27) The claimant left rather than perform the assigned work as instructed.

Generally, when an individual mistakenly believes they are discharged from employment but was not told so by the employer and they discontinue reporting for work, the separation is considered a quit without good cause attributable to the employer. While the claimant asserted that there was no work to do, he was asked to retiling a tub on November 18, 2014 and chose not to do the work and left his shift, rather than be paid to retiling the shower. He left mad, as he had in the past and never showed up or called again. Since the claimant did not follow up with management and his assumption of having been fired or having no work to do was erroneous, his failure to continue reporting to work was an abandonment of the job. Benefits are denied.

**DECISION:**

The December 31, 2014 (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.

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Jennifer L. Coe  
Administrative Law Judge

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Decision Dated and Mailed

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