

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RONALD W WENDEL
Claimant

APPEAL NO. 10A-UI-00814-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

JARCO BUILDERS LTD
Employer

**Original Claim: 12-13-09
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the January 7, 2010, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on February 24, 2010. The claimant did participate. The employer did participate through Jerry Reicks, President. Employer's Exhibit One was received.

ISSUE:

Did the claimant voluntarily quit his employment without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: Claimant was employed as a carpenter/metal framer, full-time, beginning September 30, 2002, through October 12, 2009, when he voluntarily quit. Continued work was available for the claimant if he had not quit.

The claimant and his supervisor, Russ, were working out of town in Omaha for approximately the last year and one-half. Every Monday the employees were required to renew their room key at the front desk of the hotel where they were staying during the week. On Monday, October 12, the claimant and Russ stopped at the grocery store on their way back to the motel. When they arrived at the motel, the claimant told Russ he did not want to get out of the car to go into renew his room key because he had groceries on his lap. Russ was not required to renew the claimant's room key for him. Russ told the claimant he was a lazy bastard because he would not get out of the car and walk into the motel to renew his room key. Russ then went into the motel and renewed both his and the claimant's room keys at the front desk. The claimant quit because Russ referred to him as a lazy bastard.

The claimant alleges that he and Russ always worked the same hours but were paid differently. Both were paid different rates of pay and the employer's exhibit clearly illustrates that the claimant was paid for all hours worked.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the 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.

871 IAC 24.25(22) and (27) 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 § 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 § 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:

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

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

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). The administrative law judge cannot conclude that Russ telling the claimant on off-work hours that he was a "lazy bastard" when the claimant complained about having to go into the front desk of the motel once per week to renew his room key created such an intolerable work environment that the claimant had to quit. Additionally, the administrative law judge is persuaded that the claimant was paid for all hours worked and he was never guaranteed that he would be given any work in his home area. Claimant's decision to quit was not based upon a good-cause reason attributable to the employer for leaving the employment. Benefits must be denied.

DECISION:

The January 7, 2010, reference 01, 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.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/kjw