

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROBERT G WEST
Claimant

APPEAL NO: 11A-UI-01653-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ALAN RITCHEY INC
Employer

**OC: 01/09/11
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Robert G. West (claimant) appealed a representative's February 7, 2011 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits after a separation from employment from Alan Ritchey, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 8, 2011. The claimant participated in the hearing. Billy Williams appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit for a good cause attributable to the employer?

FINDINGS OF FACT:

The claimant started working for the employer on March 2, 2010. He worked full time as a driver running a mail route from Des Moines, Iowa to Colorado, then sometimes to Las Vegas, then back to Chicago or St. Louis, then back to the Des Moines area. His last day of work was December 29, 2010. He voluntarily quit as of that date.

The claimant had found that he was becoming physically unable to keep doing the work, particularly going through the mountains in the winter months. The claimant was coming back on a trip on December 29, and the dispatcher was checking to see if the claimant would be ready to go out again soon on another run. The claimant responded that he was "wore out," that he could not go out again, and indicated he needed to quit as it just was not safe for him to continue driving.

REASONING AND CONCLUSIONS OF LAW:

If the claimant voluntarily quit his employment, he is not eligible for unemployment insurance benefits unless it was for good cause attributable to the employer. Iowa Code § 96.5-1.

Rule 871 IAC 24.25 provides that, 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. A voluntary leaving of employment requires an intention to terminate the employment relationship and an action to carry out that intent. Bartelt v. Employment Appeal Board, 494 N.W.2d 684 (Iowa 1993); Wills v. Employment Appeal Board, 447 N.W.2d 137, 138 (Iowa 1989). The claimant did express or exhibit the intent to cease working for the employer and did act to carry it out. The claimant would be disqualified for unemployment insurance benefits unless he voluntarily quit for good cause attributable to the employer.

The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. Quitting because of personal illness or physical condition, where a doctor has not recommended quitting and the claimant did not thereafter recover and seek to return to work, is not a good cause attributable to the employer, even though it is a good personal reason. 871 IAC 24.25(20), (35). There has not been a showing that there was a work-connected medical condition that would have necessitated the claimant quit. 871 IAC 24.25(36); 871 IAC 24.26. Unemployment insurance benefits are not intended to substitute for health or disability benefits. White v. Employment Appeal Board, 487 N.W.2d 342 (Iowa 1992). The claimant has not satisfied his burden. Benefits are denied.

DECISION:

The representative's February 7, 2011 decision (reference 01) is affirmed. The claimant voluntarily left his employment without good cause attributable to the employer. As of December 29, 2010, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/css