

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JEREMY A JUFFER
Claimant

APPEAL NO: 10A-EUCU-00017-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CANTON MARINE AND TOWING
Employer

OC: 03/29/09
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Jeremy A. Juffer (claimant) appealed a representative's December 31, 2009 decision (reference 02) that concluded he was not qualified to receive unemployment insurance benefits after a separation from employment from Canton Marine and Towing (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 15, 2010. The claimant participated in the hearing. Stephanie Collins 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 October 8, 2009. He worked full time as a deck hand in the employer's Mississippi River barge towing business. His last day of work was December 9. He voluntarily quit on that date.

The employer typically shuts down for the season when the weather becomes cold enough to make navigation on the river difficult, usually about the end of December. Ice on the boat deck is a common issue during the final weeks of the operating season. The employer provides shoe cleats and "ice melt" to allow the deck hands to operate on the boat more safely. The last time the boat on which the claimant was working operated in 2009 was December 17. However, the claimant determined he did not wish to wait until the very end of the season to quit because he was afraid of being injured in working on or around the ice that accumulated on the boat and barges.

On December 9 the boat was docked in Hannibal, Missouri, and was preparing to gather some barges that had gotten away before heading back north. At about 1:40 p.m. the other deck hand fell and injured his shoulder after slipping on some ice. The claimant and the deck hand had not used available time to put cleats on their shoes before getting to the barge, and had not

brought up any "ice melt" to help with the ice on the deck. After the other deck hand was injured, the claimant was securing the barge with some assistance of one of the captains, and slipped over the side of the boat himself, and had to be pulled back on by the captain.

While he was struggling to hang on, the other captain, who was piloting, was radioing him and asking if he had the barge secured yet, as he was trying to get back to the dock so the other deck hand could receive medical attention. When the claimant did not answer, as he was dangling over the side of the boat, the pilot became irritated and said, "g - - d - - it, answer me." The claimant was upset that the pilot had not been paying attention to where he was to know that he was in jeopardy himself.

The boat returned to the dock within an hour after the other deck hand had fallen, and the claimant put "ice melt" on the deck so emergency crews could come on board to provide assistance. The claimant left the boat, and at about 2:40 p.m. called the employer's office to report he would not be back. The claimant had the impression that the boat was going to proceed to leave with only him as deck hand after the other deck hand was taken to the hospital, and he did not think he could do the job alone. However, there had been nothing said to the claimant after the accident that the boat was going to prepare to leave with only one deck hand, and the employer in fact would have left the boat docked until a replacement deck hand could have been borrowed from another one of the employer's boats that was in the vicinity.

The claimant established a claim for unemployment insurance benefits effective March 29, 2009. After the separation he reopened the claim by filing an additional claim effective December 13, 2009.

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.

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. The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3), (4). Leaving because of a dissatisfaction with the work environment is not good cause. 871 IAC 24.25(21). While the claimant's work situation was perhaps not ideal, he has not provided sufficient evidence to conclude that a reasonable person would find the employer's work environment detrimental or intolerable. O'Brien v. Employment Appeal Board, 494 N.W.2d 660 (Iowa 1993); Uniweld Products v. Industrial Relations Commission, 277 So.2d 827 (FL App. 1973). The type of risk the claimant was facing was inherent in the job he had accepted, and the evidence does not show that proper safety precautions were not taken by the

employer. A person who quits employment without good cause attributable to the employer must be disqualified from further benefits even if that person has given up unemployment insurance benefits to accept the work which was then considered unsuitable. Taylor v. Iowa Department of Job Service, 362 N.W.2d 534 (Iowa 1985). The claimant has not satisfied his burden. Benefits are denied.

DECISION:

The representative's December 31, 2009 decision (reference 02) is affirmed. The claimant voluntarily left his employment without good cause attributable to the employer. As of December 9, 2009, 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