

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CODY L CHRISTIANSON
Claimant

APPEAL NO. 08A-UI-10111-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DAN OBRIEN CONSTRUCTION
Employer

**OC: 10/28/07 R: 04
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Cody L. Christianson (claimant) appealed a representative's October 21, 2008 decision (reference 04) that concluded he was not qualified to receive unemployment insurance benefits after a separation from employment from Dan O'Brien Construction (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 17, 2008. The claimant participated in the hearing. Dan O'Brien 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 May 12, 2008. He worked full time as a laborer/carpenter in the employer's general contracting construction business. His last day of work was August 12, 2008.

Prior to August 12, 2008, the claimant had already informed the employer that his last day of regular work would be about August 21 because he was going to attend school full time. On August 12 the claimant suffered a convulsive seizure while at work and was taken to the hospital. As a result, he was off work the rest of that day and August 13. The claimant's doctor was unable to diagnose what triggered the seizure; no medical evidence was presented to indicate that it had anything to do with the work environment. On August 14 the claimant came to the work site, but presented a doctor's note indicating that he was not to drive or climb for six months. He realized that he would not be able to get to work and would not be able to perform the essential job functions with those restrictions, but wanted the employer to be aware of his situation.

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, both by previously informing the employer that he would be leaving to attend school full time and on August 14 when he informed the employer that he would not be able to drive to get to work and had no other transportation and that he would not be able to do the essential functions of the job for six months. 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. Leaving in order to obtain additional schooling is not a good cause for quitting attributable to the employer. 871 IAC 24.25(26). Quitting due to a lack of transportation is not good cause attributable to the employer. 871 IAC 24.25(1). Quitting due to a medical issue that is not shown by medical evidence to be caused or aggravated by the employment is not good cause. 871 IAC 24.26(6)b. The claimant has not satisfied his burden. Benefits are denied.

DECISION:

The representative's October 21, 2008 decision (reference 04) is affirmed. The claimant voluntarily left his employment without good cause attributable to the employer. As of August 14, 2008, 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/kjw