

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TRAMOND E FRANKLIN
Claimant

MAILING SERVICES INC
Employer

APPEAL 15A-UI-02176-L-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 01/18/15
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.6(2) – Timeliness of Appeal

STATEMENT OF THE CASE:

The claimant filed an appeal from the February 6, 2015, (reference 01) unemployment insurance decision that denied benefits based upon voluntarily quitting the employment. The parties were properly notified about the hearing. A telephone hearing was held on May 11, 2015. Claimant participated. Employer participated through company president Joseph Corpstein.

ISSUES:

Is the appeal timely?
Did claimant voluntarily quit the employment with good cause attributable to employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant was employed part-time as a warehouse attendant from November 18, 2012, and was separated from employment on January 13, 2015, when he quit. He had been hired to work full-time but voluntarily reduced his hours to part-time after he had child care issues. In October 2014, claimant complained to Corpstein about supervisors Mark and Tammy questioning his preapproved unpaid leave time asking him, “why aren’t you here?” and “we need you here?” in text messages. He was particularly concerned about Mark’s use of foul language towards him. Corpstein met with each of them and directed Mark to apologize to claimant. His last day of work was November 16, 2014, after his cousin died. In December 2014, claimant contacted Corpstein and told him he needed to be off work for a month due to a gastrointestinal illness. The employer is not subject to Family and Medical Leave Act (FMLA) because it has fewer than 50 employees, but granted claimant the time off without pay. There was confusion about whether or not claimant was expected to provide medical documentation to support his absence. In January 2015, Corpstein pushed claimant about when he would return to work and claimant texted him the next day he would not return because of concerns with Mark and Tammy and working part-time hours.

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(6), (17), (22) 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 § 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:

(6) The claimant left as a result of an inability to work with other employees.

(17) The claimant left because of lack of child care.

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

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). While claimant's leaving the employment may have been based upon good personal reasons, he did not present a good-cause reason attributable to the employer according to Iowa law. An employer has the right to allocate personnel in accordance with the needs and available resources. *Brandl v. Iowa Dep't of Job Serv.*, (No. ___-___/___-___, Iowa Ct. App. filed ___, 1986). Thus claimant's desire to work a schedule more convenient for his child care schedule was not a reason attributable to the employer. His decision to quit because of a stale concern dating to a month or more before his last day of work was not for a good cause reason attributable to the employer as he acquiesced to the employer's resolution by continuing to work, even though Mark's abusive language might have provided a good cause reason for leaving at the time.

DECISION:

The February 6, 2015, (reference 01) unemployment insurance decision is affirmed. 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.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/pjs