

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**JUSTIN L WILLIAMS**

Claimant

**APPEAL 21A-UI-24080-DG-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MARTIN MARIETTA MATERIALS INC**

Employer

**OC: 09/26/21**

**Claimant: Appellant (2)**

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Iowa Code § 96.5(1) – Voluntary Quitting  
Iowa Admin. Code 871-24.26(4) – Intolerable Work Conditions

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated October 19, 2021, (reference 01) that held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on December 21, 2021. Claimant participated. Employer failed to respond to the hearing notice and did not participate. The administrative law judge took official notice of the administrative record including the fact-finding documents.

**ISSUES:**

The issue in this matter is whether claimant quit for good cause attributable to employer?

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on September 21, 2021. Claimant left the employment on September 22, 2021 because his employment had become intolerable.

Claimant began working for employer as a full-time equipment operator on November 6, 2020. Claimant received on the job training at the time of hire.

Sometime in August, 2021 claimant began feeling harassed at work. Claimant was not paid his per-diem as agreed upon by the employer, and he lost approximately \$1,000.00 because of that error. Claimant tried to get the pay issue fixed, and employer reluctantly tried to help him.

Claimant was also being harassed by co-workers. Co-workers made fun of how he talked, and they made faces at him and laughed at him. Claimant reported the issues to the employer, and a co-worker later told claimant that he better watch his back.

Claimant felt belittled and afraid at work. The harassment continued as co-workers made fun of his speech, and called him dumb. Claimant decided that he had to leave the employment on September 21, 2021 because he could no longer tolerate work.

**REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge holds that the evidence has established that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because his work environment had become intolerable.

Iowa Code section 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. 871-24.26(4) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

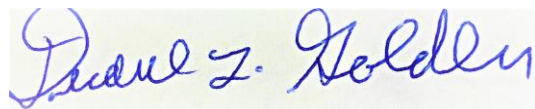
- (4) The claimant left due to intolerable or detrimental working conditions.

A notice of an intent to quit had been required by *Cobb v. Emp't Appeal Bd.*, 506 N.W.2d 445, 447-78 (Iowa 1993), *Suluki v. Emp't Appeal Bd.*, 503 N.W.2d 402, 405 (Iowa 1993), and *Swanson v. Emp't Appeal Bd.*, 554 N.W.2d 294, 296 (Iowa Ct. App. 1996). Those cases required an employee to give an employer notice of intent to quit, thus giving the employer an opportunity to cure working conditions. However, in 1995, the Iowa Administrative Code was amended to include an intent-to-quit requirement. The requirement was only added to rule 871-24.26(6)(b), the provision addressing work-related health problems. No intent-to-quit requirement was added to rule 871-24.26(4), the intolerable working conditions provision. Our supreme court concluded that, because the intent-to-quit requirement was added to Iowa Admin. Code r. 871-24.26(6)(b) but not 871-24.26(4), notice of intent to quit is not required for intolerable working conditions. *Hy-Vee, Inc. v. Emp't Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005).

Claimant's left the employment because his work environment was intolerable, his separation from employment was for a good-cause reason attributable to the employer. Benefits are allowed.

**DECISION:**

The decision of the representative dated October 19, 2021, (reference 01) is reversed. Unemployment insurance benefits are allowed provided claimant is otherwise eligible.



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Duane L. Golden  
Administrative Law Judge

January 28, 2022  
Decision Dated and Mailed

dlg/mh