

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ALAN CAMPBELL
Claimant

APPEAL 21A-UI-03500-SN-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

ALTER TRADING CORPORATION
Employer

OC: 05/10/20
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed an appeal from the January 12, 2021, (reference 02) unemployment insurance decision that denied benefits based upon her voluntary quit. The parties were properly notified about the hearing. A telephone hearing was held on March 25, 2021. Claimant participated and testified. Employer participated through Employer Representative Tim Speir, Facility Manager Chris Wike, and Regional Human Resources Manager Scott Erickson.

ISSUE:

Was the separation a layoff, discharge for misconduct or voluntary quit without good cause attributable to the employer?

FINDINGS OF FACT:

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

The claimant was employed full-time as a heavy equipment operator from February 19, 2018, and was separated from employment on June 25, 2020, when he quit. The claimant's immediate supervisor was Supervisor Kody Smith. The claimant's schedule was three days from 5:30 a.m. to 6:00 p.m. followed by four days off.

The employer has a rule in its employee handbook that states if an employee is absent for three consecutive days and has not reported in to work, then they are to be considered a voluntary quit. Employees are supposed to report their absences at least an hour before their shift starts to their immediate supervisor. The claimant was aware of these policies because he received an employee handbook at the time of hire.

On June 27, 2020, the claimant was absent from work because he was sick. He did not call in according to the employer's procedure because he did not have an operating phone.

On June 29, 2020, the claimant did not was absent from work because he was sick. He did not call in according to the employer's procedure because he did not have an operating phone.

On July 3, 2020, the claimant did not was absent from work because he was sick. He did not call in according to the employer's procedure because he did not have an operating phone.

On July 3, 2020, Regional Human Resources Manager Scott Erickson, Mr. Smith and Facility Manager Chris Wike made the decision to consider the claimant as a voluntary quit because he was absent on three consecutive shifts occurring on June 27, June 29 and July 3, 2020 without calling in.

The claimant did not grieve his separation under the collective bargaining agreement.

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 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. 871-24.25 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 section 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 section 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:

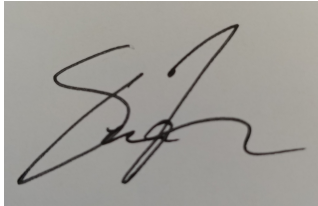
- (4) The claimant was absent for three days without giving notice to employer in violation of company rule.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973). A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980).

In this case, the claimant's separation falls squarely within the disqualification listed in Iowa Admin. Code r. 871-24.25(4). While claimant's leaving may have been based upon good personal reasons, it was not for a good-cause reason attributable to the employer according to Iowa law. Benefits are denied.

DECISION:

The January 12, 2021, (reference 02) unemployment insurance decision is affirmed. The claimant voluntarily left his 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.

A handwritten signature in black ink, appearing to read 'S. Nelson', is shown on a light gray background.

Sean M. Nelson
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515) 725-9067

March 30, 2021
Decision Dated and Mailed

smn/kmj