

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARION E VALERIUS
Claimant

APPEAL NO. 12O-UI-06845-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

VAN METER INDUSTRIAL INC
Employer

OC: 02/05/12
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated March 14, 2012, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on April 4, 2012 with a decision issued. Claimant appealed to the Employment Appeal Board which remanded for a new hearing to consider subpoenaed documents, by order dated June 11, 2012. Claimant participated and was represented by John Groupman, Legal Assistant. Employer participated by Stacie Osako, Human Resource Manager. Exhibit A and One were admitted into evidence.

ISSUE:

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 February 9, 2012. Claimant quit because of a threat of violence made by a coworker. The coworker told claimant that if he had to do it over again...it would be the last thing he (claimant) would ever do. Claimant had a conflict with this coworker. Claimant did not report the violent threat to employer. Claimant does not like confrontation. Claimant simply quit rather than complain to employer. There is no evidence to show that employer was aware of threatening behavior by the coworker prior to separation. Claimant did inform employer that he was quitting due to a hostile work environment without any further explanation. Claimant asserts a serious threat of violence yet never contacted law enforcement. Claimant did not file for an order of protection as against this employee.

Claimant in the past resolved an employee conflict by emailing upper management on the issue. After the email, employer took prompt remedial action to resolve the conflict. Claimant was aware of methods to resolve conflicts yet availed himself of none.

The threatening coworker clearly had some antisocial tendencies. However, nothing in the record indicates that the coworker was creating a hostile work environment. Nothing in the past warnings indicates that the coworker was hostile and or homicidal. At the first hearing claimant did not say that he had told management about his problems with the coworker. Claimant

changed his story at the remand hearing. Testimony at the first hearing is more credible than testimony at the remand hearing.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because of a conflict with a coworker. This is a personal reason for a quit. If claimant had reported this to employer with no resolution it might have been good cause for a quit. Claimant's assertion that the comment was a serious death threat is not accepted as correct. If claimant were really afraid for his life he should have contacted law enforcement or at the least filed for a restraining order.

As the record stands, there is no evidence that employer was aware of the threats. The old warnings do not indicate that the coworker was homicidal. To the contrary, the old warnings show an employee with an attitude issue and nothing more. This threat was not as serious as claimant asserts based on claimant's actions after the fact. Furthermore, claimant knew exactly what to do about a coworker conflict as exhibited by his email complaint in the past. Claimant had many remedies to exhaust before resignation but instead took a path of least resistance by employment termination.

Where conflicts exist in claimant's testimony between hearings, the first hearing's testimony is found correct.

Benefits withheld as claimant voluntarily quit for reasons that do not amount to good cause attributable to employer. Claimant failed to prove a hostile work environment. Employer's record of taking prompt remedial action upon knowledge of a complaint weighs heavily against a finding of a hostile work environment.

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.

871 IAC 24.25(6), (21) and (22) provide:

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:

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

(21) The claimant left because of dissatisfaction with the work environment.

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

DECISION:

The decision of the representative dated March 14, 2012, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/css