

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CHRISTOPHER D WILLIAMS
Claimant

APPEAL 17A-UI-00264-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

WHIRLPOOL CORPORATION
Employer

OC: 07/03/16
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Admin. Code r. 871-24.25(4) – Three Day No-Call/No-Show
Iowa Admin. Code r. 871-24.25(20) – Compelling Personal Reasons Exceeding Ten Days
Iowa Admin. Code r. 871-24.25(23) – Serious Family Responsibilities

STATEMENT OF THE CASE:

The claimant filed an appeal from the December 30, 2016, (reference 07) unemployment insurance decision that denied benefits based upon a determination that claimant voluntarily quit for personal reasons. The parties were properly notified of the hearing. A telephone hearing was held on January 30, 2017. The claimant, Christopher Williams, participated. The employer, Whirlpool Corporation, participated through Eric McGarvey, human resources generalist. Employer's Exhibits 1 through 7 were received, and Exhibits 1, 2, 6, and 7 were admitted into the record.

ISSUE:

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 full time, most recently as an assembler, from August 29, 2016 (seniority date of 1/26/16), until December 5, 2016, when he quit. Claimant testified that right before Thanksgiving 2016, he spoke to Sue Schoenfelder in Human Resources and told her that he had a family emergency. Claimant informed Schoenfelder that he needed to leave his employment to resolve this emergency, and Schoenfelder responded that claimant could reapply at a later time and return to work. Claimant testified that he selected December 5 as his last day of work, and he left employment after that date.

McGarvey denies that the employer had notice that claimant was leaving his employment. According to his testimony, claimant last reported to work on December 5, 2016. He then missed multiple consecutive shifts (on December 7, 8, 9, and 12) and did not call in to report that he would be absent. Therefore, on December 13, the employer discharged claimant for job abandonment. McGarvey also stated that the employer is investigating whether claimant

actually reported to work for any shifts after November 20. This is not related to the separation from employment.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from employment was without good cause attributable to the employer. Benefits are withheld.

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 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.

...

(20) The claimant left for compelling personal reasons; however, the period of absence exceeded ten working days.

...

(23) The claimant left voluntarily due to family responsibilities or serious family needs.

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).

Here, the parties disagree about the reason that claimant quit his employment. Claimant contends he spoke to someone in Human Resources and notified this person that he was leaving his employment to deal with a family emergency. McGarvey denies that claimant spoke

to anyone in Human Resources and contends that claimant abandoned his job. Under either scenario, claimant is not entitled to benefits based on this separation. Under the employer's version of events, claimant's leaving the employment without notice or reason, and the failure to return to work renders the separation job abandonment without good cause attributable to the employer. Under claimant's version of events, while he may have had compelling personal reasons to leave his employment, these reasons are not attributable to the employer. Benefits are withheld.

DECISION:

The December 30, 2016, (reference 07) unemployment insurance decision is affirmed. Claimant separated from 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.

Elizabeth A. Johnson
Administrative Law Judge

Decision Dated and Mailed

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