

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

PRINCE B MAIMAN
Claimant

DEE ZEE INC
Employer

APPEAL 22A-UI-05146-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 06/27/21
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

On February 24, 2022, Prince Maiman (claimant/appellant) filed a timely appeal from the Iowa Workforce Development (“IWD”) decision dated February 21, 2022 (reference 09) that disqualified claimant from unemployment insurance benefits based on a finding that he voluntarily quit work on February 1, 2022 without good cause attributable to employer.

A telephone hearing was held on April 6, 2022. The parties were properly notified of the hearing. The claimant participated personally. Dee Zee Inc (employer/respondent) participated by HR Assistant Molly Reilly. HR Director Carrie Minor participated as a witness for employer.

Employer’s Exhibits 1 and 2 were admitted. Official notice was taken of the administrative record.

ISSUE(S):

- I. Was the separation from employment a layoff, discharge for misconduct, or voluntary quit without good cause?

FINDINGS OF FACT:

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

Claimant worked for employer full-time as a material handler. Claimant’s first day of employment was August 2, 2021. Claimant’s immediate supervisor was Andrew Corey. The last day claimant worked on the job was January 27, 2022. Claimant separated from employment on February 1, 2022. Claimant formally resigned at that time.

Claimant left work during his shift on January 27, 2022. Claimant left because there was not a forklift truck for him to use to do his usual work, as it was broken down. The forklift truck was older and generally in poor repair and so was not going to be available for a week or two while it was fixed. Mr. Corey asked claimant to work on one of employer’s production lines until the forklift truck was available again. Claimant declined to do so because he was not trained to work on the production line and did not wish to perform that work. Claimant would have received on-the-job training to perform the production line work. His hours and rate of pay in this position would have

been unchanged. The position would have included assembling parts. Claimant did not even attempt to perform the work. When claimant declined to perform this temporary, alternative work, Mr. Corey directed him to go home.

Claimant was scheduled to work on January 28, January 31, and February 1, 2022 but did not report to work on those days or call in to report he would be absent. He submitted a resignation email to HR Generalist Lacey Little the morning of February 1, 2022 after his shift was set to begin. In that email he made myriad allegations about his working conditions. Ms. Minor investigated these allegations by speaking with Plant Manager John Dorr, Mr. Corey, and others and determined they were without merit. Claimant had complained in the past about his forklift being unreliable. Claimant had not previously raised with management the other allegations contained in the email.

Claimant did not have another job lined up prior to resigning. There was continuing work available for claimant had he not voluntarily separated from employment.

REASONING AND CONCLUSIONS OF LAW:

For the reasons set forth below, the decision dated February 21, 2022 (reference 09) that disqualified claimant from unemployment insurance benefits based on a finding that he voluntarily quit work on February 1, 2022 without good cause attributable to employer is AFFIRMED.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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 in relevant part:

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:

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

(27) The claimant left rather than perform the assigned work as instructed.

Iowa Admin. Code r. 871-24.26 provides in relevant part:

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:

(1) A change in the contract of hire. An employer's willful breach of contract of hire shall not be a disqualifiable issue. This would include any change that would jeopardize the worker's safety, health or morals. The change of contract of hire must be substantial in nature and could involve changes in working hours, shifts, remuneration, location of employment, drastic modification in type of work, etc. Minor changes in a worker's routine on the job would not constitute a change of contract of hire.

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

(23) The claimant left work because the type of work was misrepresented to such claimant at the time of acceptance of the work assignment.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). The employer has the burden of proving that a claimant's departure from employment was voluntary. *Irving v. Emp't Appeal Bd.*, 883 N.W.2d 179 (Iowa 2016). "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". *Id.* (citing *Cook v. Iowa Dept. of Job Service*, 299 N.W.2d 698, 701 (Iowa 1980)).

"Good cause" for leaving employment must be that which is reasonable to the average person, not to the overly sensitive individual or the claimant in particular. *Uniweld Products v. Industrial Relations Commission*, 277 S.2d 827 (Florida App. 1973). While a notice of intent to quit is not required to obtain unemployment benefits where the claimant quits due to intolerable or detrimental working conditions, the case for good cause is stronger where the employee complains, asks for correction or accommodation, and employer fails to respond. *Hy-Vee Inc. v. EAB*, 710 N.W.2d 1 (Iowa 2005).

Iowa unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code §§ 96.5(1) and 96.5(2)a. A voluntary quitting of employment requires that an employee exercise a voluntary choice between remaining employed or terminating the employment relationship. *Wills v. Emp't Appeal Bd.*, 447 N.W.2d 137, 138 (Iowa 1989); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438, 440 (Iowa Ct. App. 1992). 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).

It is the duty of the administrative law judge, as the trier of fact in this case, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *Id.* In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other believable evidence; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *Id.*

The administrative law judge did not find claimant's allegations that he was being discriminated against, harassed, unfairly monitored, unfairly assigned work, and so on to be credible. For example, employer presented credible evidence that claimant was being monitored more closely than others because he was on many occasions found to be away from his work area without

permission or taking extended breaks beyond what was allowed. Employer also provided credible evidence that it was severely understaffed during the period claimant was employed there and that numerous employees were asked to perform more or different kinds of work as a necessity to continue operations during an uncertain period of time. These facts strongly weigh against claimant's contentions that employer was unfairly treating him differently than other employees.

Claimant's allegation that his forklift truck was unsafe is not availing either. While the forklift truck was in poor repair, the evidence presented shows it was merely unreliable rather than unsafe. Notably, claimant did not resign until after the forklift truck was unavailable. This is strong evidence that the resignation was not because of the forklift truck being unsafe but because he did not want to perform work on the production line.

Employer has carried its burden of proving claimant's departure from employment was voluntary. However, claimant has not carried his burden of proving the voluntary leaving was for good cause attributable to employer. Claimant has not shown the working conditions were so intolerable or detrimental as to justify resignation. Nor has he shown that the type of work was misrepresented or that there was a substantial change in the contract of hire.

While the administrative law judge understands that claimant did not wish to perform the production line work, it was only temporary in nature and was not unsafe or drastically different than his usual position. He would have received on-the-job training and the rate of pay and hours of work were the same. Claimant did not even attempt to perform this work but instead dismissed it out of hand.

Claimant's resignation is best described as being due to dissatisfaction with the work environment and because he did not wish to perform assigned work. These are not good cause reasons for resigning attributable to employer. As such the separation from employment was disqualifying and benefits must be denied.

DECISION:

The decision dated February 21, 2022 (reference 09) that disqualified claimant from unemployment insurance benefits based on a finding that he voluntarily quit work on February 1, 2022 without good cause attributable to employer is AFFIRMED. Claimant's separation from employment was disqualifying. Benefits must be denied, and employer's account shall not be charged. This disqualification shall continue until claimant has earned wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is not otherwise disqualified or ineligible.



Andrew B. Duffelmeyer
Administrative Law Judge

April 8, 2022
Decision Dated and Mailed

abd/abd