

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

TERRY L CROW
Claimant

SWIFT PORK COMPANY
Employer

APPEAL NO. 18A-UI-09750-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 09/09/18
Claimant: Appellant (1)

Iowa Code § 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated September 24, 2018, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on October 8, 2018. Claimant participated. Employer participated by Rogelio Bahena.

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 April 17, 2018. Claimant voluntarily quit on April 17, 2018 because he felt that he could no longer work where his son was working as his son was incessantly harassing him.

Claimant stated that he helped to get his son a job with employer. After son's training, claimant's son was put with claimant. Claimant stated that his son left the area on multiple occasions when he was supposed to work. Claimant stated that he was addressed by human resources about his interactions with his son. Claimant's son went to human resources and complained about how he'd been treated by his father, who'd allegedly been partying all night with his friends and threatened his son. Human resources spoke with both father and son, and decided to move the son to a different area, as claimant had far more experience than his son. (Claimant had worked for employer for six months while his son began working with his father three days earlier.)

After claimant's son was moved approximately a hundred yards away (claimant said that his son was moved between five feet and fifty yards away) claimant stated that he was still tormented by his son. Claimant said his son laughed at him repeatedly, both while working, and while encountering claimant in the hallway. Claimant decided that he could not put up with this harassment any more when he went to human resources. Employer stated that they asked if

there was any corroboration to claimant's allegations. Claimant demurred and decided he'd rather quit than endure any more of the harassment.

Claimant additionally stated that his quit was for other, additional reasons. Claimant alleged that he should have received a six-month bonus, but did not. Claimant also alleged that he was harassed by one of his supervisors. Claimant stated that he did not go to human resources regarding the alleged harassment from his supervisor, who claimant stated told him that he would get his job a few weeks before claimant quit.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 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(21) 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:

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

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 his son was harassing him. Claimant's son was hired because of claimant, or so claimant stated. Within two days of working with his son, claimant and his son had a falling out such that human resources spoke with both parties and separated them. Employer stated that claimant's son was placed a good distance away from claimant. Nonetheless, claimant stated that he kept getting harassed. Claimant did not go back to employer to complain that he needed to have his son move further away. Instead, claimant just told employer that he was quitting. Employer had shown a willingness to move claimant's son within a day of finding out about the conflict. Claimant didn't give employer an opportunity to make any further adjustments. Instead, claimant simply quit.

Ordinarily "good cause" is derived from the facts of each case keeping in mind the public policy stated in Iowa Code Section 96.2. *O'Brien v. EAB* 494 N.W.2d 660, 662 (Iowa 1993) (citing *Wiese v. IA Dept. of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986)). "The term encompasses real circumstances, adequate excuses that will bear the test of reason, just grounds for the action, and always the test of good faith." *Wiese v. IA Dept. of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986). "Common sense and prudence must be exercised in evaluating all of the circumstances that led to an employee's quit in order to attribute the cause for the termination."

Id. In accessing claimant's allegations for good cause for his quit, the situation does not constitute good cause as claimant didn't give employer an opportunity to make further adjustments as to areas where the parties would work or schedules of the parties. Regarding the nonpayment of a bonus, claimant has shown no documentation of a request for a bonus, nor did claimant mention anything surrounding an expected bonus during his exit interview. Additionally, claimant's complaint about his supervisor is not successful as a reason for claimant's quit as claimant did not go to human resources with his complaint about the supervisor that had threatened him. Claimant certainly knew to go to human resources, as they'd been involved with claimant on multiple occasions during claimant's last week of work. There was no explanation why claimant didn't complain to proper authorities before his quit.

DECISION:

The decision of the representative dated September 24, 2018, 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.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed

bab/scn