

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

SHAWN T LEE
Claimant

ROSE ACRE FARMS
Employer

APPEAL 14A-UI-11292-LT
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 10/05/14
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

The claimant filed an appeal from the October 24, 2014 (reference 01) unemployment insurance decision that denied benefits based upon voluntarily quitting the employment. The parties were properly notified about the hearing. A telephone hearing was held on November 19, 2014. Claimant participated. Employer participated through Stuart, Iowa egg farm complex manager Andrew Kaldenberg.

ISSUE:

Did claimant voluntarily leave the employment with good cause attributable to employer or did employer discharge claimant for reasons related to job-misconduct sufficient to warrant a denial of benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time as a night shift cleaner from May 6, 2014 and was separated from employment on August 4, 2014 when he discontinued reporting for work. He had a personal conflict with the work schedule in early August and was told if he could not work those dates he must find someone to work for him. No one said he would be discharged if he failed to do so. His son needs ongoing medical attention in Iowa City and in July he had arranged for an appointment on August 11. He could not sign up for time off until the last week of July and August 11 was already claimed by someone else. He did not take the matter up with a supervisor, management, or personnel. Prior to that appointment he discontinued reporting for work because of the temperature in the building where he worked when the air conditioning system was temporarily broken. He began feeling light-headed and the employer told him it would be fixed but was not sure when. He said he felt dehydrated and needed to go home. Supervisor Elias gave him permission to leave but told him it could result in an attendance point. He returned the next day and worked the rest of the week. The air conditioning unit had not been repaired but the weather was cooler. The employer does not have recollection of the air conditioning being broken for an extended period of time and had no information about the claimant's son's medical needs. If an employee is unable to trade shifts for such a need they

may inform a manager about the situation and the medical absence will be prioritized. Claimant did not report for work between Monday, August 4 and his son's Monday, August 11 appointment because he assumed he would be fired. He already had two absences in the quarter but no warnings his job was in jeopardy. Continued work was available.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant was not discharged but voluntarily left the employment without good cause attributable to employer.

Iowa Code § 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

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(21), (27) 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.

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

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). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2) (amended 1998). Generally, when an individual mistakenly believes they are discharged from employment, but was not told so by the employer, and they discontinue reporting for work, the separation is considered a quit without good cause attributable to the employer. *LaGrange v. Iowa Dep't of Job Serv.*, (No. 4-209/83-1081, Iowa Ct. App. filed June 26, 1984).

Since claimant did not follow up with management personnel about needing time off for his son's medical appointment on August 11 and his assumption he would be fired was erroneous, the failure to continue reporting to work was an abandonment of the job. Additionally, because he failed to return to work after the air conditioning issue was resolved renders the separation without good cause attributable to the employer. Benefits are denied.

DECISION:

The October 24, 2014 (reference 01) unemployment insurance decision is affirmed. Claimant voluntarily left the 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. If he has evidence of gross wages of \$2710 or more since this separation date, he should present that to IWD to establish requalification.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

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