

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**JAMES G FLESHMAN**  
Claimant

**ARMORED KNIGHTS**  
Employer

**APPEAL 22A-UI-07067-AD-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 02/20/22  
Claimant: Appellant (2)**

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

**STATEMENT OF THE CASE:**

On March 20, 2022, James Fleshman (claimant/appellant) filed a timely appeal from the Iowa Workforce Development (“IWD”) decision dated March 16, 2022 (reference 04) that disqualified claimant from unemployment insurance benefits based on a finding that he voluntarily quit work on February 18, 2022 for personal reasons.

A telephone hearing was held on June 15, 2022. The parties were properly notified of the hearing. The claimant participated personally. Appeal Nos. 22A-UI-07067 and 22A-UI-07068 are related and were heard together, forming a single hearing record. Armored Knights (employer/respondent) was noticed on 22A-UI-07067 but did not appear or participate.

Claimant’s Exhibit 1 admitted. Official notice was taken of the administrative record.

**ISSUE(S):**

- I. Was there a disqualifying separation from employment?

**FINDINGS OF FACT:**

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

Claimant began working for employer on April 28, 2021. Claimant was employed as a full-time armored car driver/security officer. Claimant’s immediate supervisor was General/Regional Manager Joe Coyne. The last day claimant worked on the job was February 18, 2022.

On the morning of February 18, 2022 claimant gave employer notice of his intent to resign March 11, 2022 to accept work elsewhere. Later that day claimant was involved in a minor collision when he clipped the mirror of a parked car while parking one of employer’s large vehicles. At the end of the day Mr. Coyne advised claimant not to worry about it and said he would see him the next day.

However, Sales Manager Ryan Knight confronted claimant and demanded he complete a drug and alcohol test. Claimant declined to do so because Mr. Knight was not his supervisor, because he was unaware of employer having a drug and alcohol testing policy, and because others who had been involved in much more serious collisions were not tested. Claimant believed Mr. Knight was targeting him because he was critical of employer in his resignation letter and Mr. Knight's father owned the business.

When claimant declined to do the test Mr. Knight directed him to go home and told him not to return until his father contacted him the following Monday about his continued employment. Claimant received no contact from employer on Monday or thereafter.

Claimant was not impaired when he was in the minor collision and had no prior discipline. Claimant did perform work in the new position he was resigning to take.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons set forth below, the decision dated March 16, 2022 (reference 04) that disqualified claimant from unemployment insurance benefits based on a finding that he voluntarily quit work on February 18, 2022 for personal reasons is REVERSED.

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. But the individual shall not be disqualified if the department finds that:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

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:

(38) Where the claimant gave the employer an advance notice of resignation which caused the employer to discharge the claimant prior to the proposed date of resignation, no disqualification shall be imposed from the last day of work until the proposed date of resignation; however, benefits will be denied effective the proposed date of resignation.

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).

The administrative law judge finds employer discharged claimant when it directed him to go home and then did not contact him to return as it stated it would. The administrative law judge further finds employer discharged claimant due to his notifying it of his intent to resign. The timing of the discharge, the lack of prior discipline, and the fact that other employees who were involved in much more serious accidents were treated differently than claimant is strong evidence that the discharge was due to his resignation. A discharge caused by a notice of resignation and that occurs prior to the date of resignation is not disqualifying. Claimant's resignation was not disqualifying either as he resigned to accept work elsewhere, which he did accept and perform work in.

**DECISION:**

The decision dated March 16, 2022 (reference 04) that disqualified claimant from unemployment insurance benefits based on a finding that he voluntarily quit work on February 18, 2022 for personal reasons is REVERSED. The separation from employment was not disqualifying. Benefits are allowed, provided claimant is not otherwise disqualified or ineligible.



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Andrew B. Duffelmeyer  
Administrative Law Judge

June 22, 2022  
Decision Dated and Mailed

abd/abd