

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**ANTHONY T MORGAN**  
Claimant

**MAJESTIC LIMOUSINE SERVICE LLC**  
Employer

**APPEAL 18A-UI-08073-NM-T**  
**ADMINISTRATIVE LAW JUDGE**  
**DECISION**

**OC: 06/24/18**  
**Claimant: Appellant (1)**

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Iowa Code § 96.5(1) – Voluntary Quitting

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the July 19, 2018, (reference 01), unemployment insurance decision that denied benefits based upon his voluntary quit. The parties were properly notified about the hearing. A telephone hearing was held on August 17, 2018. Claimant participated and testified. Employer participated through Executive Assistant Jacqueline Veldhuizen and witnesses Daniel Warwick and Scott Woodruff. Melissa Woodruff and Alexandria Benson were also present on behalf of the employer, but did not testify. Employer's Exhibits 1 through 6 were received into evidence.

**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 began working for employer on March 21, 2018. Claimant last worked as a full-time commercial driver/chauffeur. Claimant was separated from employment on April 18, 2018, when he voluntarily quit.

On June 18, 2018, the employer received an email from claimant's email address stating that he was having some medical issues and resigning his employment. The employer, Melissa Woodruff, responded by saying she hoped claimant was okay and asking him to return the company property in his possession by July 2. (Exhibit 1). On June 27, 2018, the employer sent a text message to claimant to check in and see how he was doing. (Exhibit 2). Claimant responded he was okay but missed working with the employer and was annoyed with everyone at home. The following day the employer sent claimant another message asking if he was interested in any work over the upcoming July 4th holiday. Claimant did not respond. Claimant did eventually return all of his work property to the employer.

Claimant testified he did not send the email or any of the text messages. According to claimant the messages must have been sent by an ex-romantic partner who had access to his phone

and email. Claimant admitted he did turn in company property, but testified he only did so at the employer's request. According to claimant, he did not understand why he was being asked to return his company property, but did not ask anyone at the employer about it. Claimant further testified that if he did quit, it was not for any medical reason, but because his hours were dramatically reduced. The employer testified claimant was hired as a full-time employee, meaning he would generally be working 30 or more hours per week, but that his hours were reduced some weeks at his request or because he was unable to make it to an assignment on time. (Exhibits 4 through 6).

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

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

The decision in this case rests, at least in part, on the credibility of the witnesses. 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.*

After assessing the credibility of the witnesses who testified during the hearing, reviewing the exhibits submitted by the parties, considering the applicable factors listed above, and using her own common sense and experience, the administrative law judge finds the employer's version of events to be more credible than the claimant's recollection of those events.

Iowa Code section 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:

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

...

(37) The claimant will be considered to have left employment voluntarily when such claimant gave the employer notice of an intention to resign and the employer accepted such resignation. This rule shall also apply to the claimant who was employed by an educational institution who has declined or refused to accept a new contract or reasonable assurance of work for a successive academic term or year and the offer of work was within the purview of the individual's training and experience.

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).

Claimant resigned his employment on June 18, 2018 via email. The employer accepted that resignation. Claimant's act of turning in all of his work property, combined with the email, are both overt acts indicating his intent to resign. While claimant's leaving may have been based upon good personal reasons, it was not for a good-cause reason attributable to the employer according to Iowa law. Benefits are denied.

**DECISION:**

The July 19, 2018, (reference 01), unemployment insurance decision is affirmed. The claimant voluntarily left his 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.

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Nicole Merrill  
Administrative Law Judge

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Decision Dated and Mailed

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