

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ROBERT W BOOZELL
Claimant

GNA TRUCKING LLC
Employer

APPEAL 18A-UI-00650-CL-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 12/10/17
Claimant: Appellant (2)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the January 10, 2018, (reference 03) unemployment insurance decision that denied benefits based upon a separation from employment. The parties were properly notified about the hearing. A telephone hearing was held on February 8, 2018. Claimant participated. Employer participated through owner Garry Mattix. Claimant's Exhibit A was received.

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 August 26, 2017. Claimant last worked as a full-time dump truck driver. Claimant was separated from employment on November 5, 2017, when he resigned.

Claimant was injured in the workplace and filed a claim for workers' compensation benefits. Claimant was off work for two weeks due to his injury.

Claimant returned to work on Monday, October 30, 2017. On Friday, November 3, 2017, owner Garry Mattix informed claimant he was going to be required to work that weekend. Claimant objected, stating that he planned to go hunting. Mattix became angry and told claimant that he could not tell Mattix when he was going to work and that he had already cost employer a lot of money. Mattix also called claimant a "stupid, dumb motherfucker." The conversation ended and claimant finished the work day. Claimant did not attend work on Saturday, November 4, 2017.

On Sunday, November 5, 2017, claimant sent Mattix text messages stating he was resigning because Mattix's disrespect damaged the working relationship and nobody should ever talk to another person that way. Mattix questioned whether claimant went hunting, but did not question what claimant meant by the reference to disrespectful comments.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant voluntarily left the employment with good cause attributable to the employer.

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. 871-24.26(4) provides:

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:

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

“The use of profanity or offensive language in a confrontational, disrespectful, or name-calling context may be recognized as misconduct, even in the case of isolated incidents or situations in which the target of abusive name-calling is not present when the vulgar statements are initially made.” *Myers v. Emp’t Appeal Bd.*, 462 N.W.2d 734 (Iowa Ct. App. 1990). Inasmuch as an employer can expect professional conduct and language from its employees, claimant is entitled to a working environment without being the target of abusive, obscene, name-calling. An employee should not have to endure abusive language directed at him in order to retain employment any more than an employer would tolerate it from an employee.

Claimant has established he resigned for a good cause reason attributable to employer.

DECISION:

The January 10, 2018, (reference 03) unemployment insurance decision is reversed. Claimant voluntarily left the employment with good cause attributable to the employer. Benefits are allowed, provided he is otherwise eligible and the benefits withheld shall be paid.

Christine A. Louis
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Decision Dated and Mailed

cal/scn