

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JAMES C CARDWELL
Claimant

RUAN INC
Employer

APPEAL NO. 14A-UI-12446-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/23/14
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 November 24, 2014, reference 05, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on December 23, 2014. Claimant participated. Employer participated by Tony Hobbs.

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 March 23, 2014. Claimant worked servicing vehicles for employer. Claimant had an incident with an African-American coworker. The coworker questioned claimant's American-Indian heritage and listening to Indian music.

An initial incident involving the two coworkers occurred when claimant came close to running over his coworker. The coworker was upset about this and threatened claimant with physical violence. Claimant shared this information with his supervisor. The supervisor had the parties meet and ended up sending claimant home for the rest of the day.

When claimant was concerned with additional comments given by his coworker, claimant did not go to his supervisor, but instead went to the VP of leasing. This was not following the chain of command and claimant received a warning for not following procedures and being insubordinate. Claimant was directed to go through correct procedures in reporting problems.

Claimant continued to be frustrated by his coworker. Claimant is a practicing witch. Claimant wrote on the weekly schedule, "Hecate", meaning goddess of dark magic, next to the name of the gentleman that claimant stated had tormented him. Employer was in the process of terminating claimant for his insubordinate actions. Claimant stated that he voluntarily quit his job without notice prior to being terminated.

REASONING AND CONCLUSIONS OF LAW:

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(6) 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 § 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 § 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:

(6) The claimant left as a result of an inability to work with other employees.

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 claimant received inappropriate comments from a coworker.

"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. Industrial Relations Commission, 277 So.2d 827 (Fla. App. 1973). Each case must turn around its own facts. Wolfe v. IUCC, 232 Iowa 1254 7 N.W.2d 799 (Iowa 1943). A claimant with work issues or grievances must make some effort to provide notice to the employer to give the employer an opportunity to work out whatever issues led to the dissatisfaction. Failure to do so precludes the employer from an opportunity to make adjustments which would alleviate the need to quit. Denvy v. Board of Review, 567 Pacific 2d 626 (Utah 1977).

In January of this year claimant received what he deemed to be inappropriate comments and threats from a coworker. Claimant went to his supervisor with these threats. The supervisor spoke with the parties in an attempt to quell the situation. Claimant did not go to his supervisor or that person's supervisor on any other occasion with his problems. By avoiding proper procedures where claimant could document his difficulties, claimant has not put employer on sufficient notice that claimants quit can be seen as with "good cause."

DECISION:

The decision of the representative dated November 24, 2014, reference 05, 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/can