IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS

68-0157 (9-06) - 3091078 - EI

TROY D MORRISON
Claimant

ALTER TRADING CORPORATION
Employer

APPEAL NO: 18A-UI-02809-TN-T

ADMINISTRATIVE LAW JUDGE DECISION

OC: 02/11/18
Claimant: Appellant (1)

Iowa Code § 96.5(1)a – Voluntary Quit

STATEMENT OF THE CASE:

Troy D. Morrison, the claimant, filed a timely appeal from a decision of a representative dated February 26, 2018, (reference 01) which denied unemployment insurance benefits, finding that the claimant voluntarily quit work on February 2, 2018, after being reprimanded by the employer. After due notice, a telephone hearing was scheduled for and held on March 28, 2018. Claimant participated. The employer participated by Ms. Beverly Maze, Hearing Representative and witnesses, Ms. Jenna Maloney, Human Resource Generalist and Mr. Cory Woods, Facility Manager. Employer's Exhibits A and B were admitted into the hearing record**.**

ISSUE:

Whether the claimant left his employment with good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having considered all of the evidence in the record, finds: Troy Morrison was employed by Alter Trading Corporation from May 13, 2014 until February 8, 2018, when he resigned by a text message. Mr. Morrison was employed as a full-time lead person and was paid by the hour. His immediate supervisor was the Facility Manager, Mr. Cory Woods.

Mr. Morrison resigned by a text message citing on-going health problems. Mr. Morrison anticipated that he would have additional absences due to the health issue. Mr. Morrison thanked the company and said in his text that he would turn in his company equipment. (See Exhibit A).

Mr. Morrison sent the text message to Mr. Woods in response to an inquiry that Mr. Woods had made the previous day asking if Mr. Morrison had made it to the company doctor. Mr. Morrison had been off work for a number of days in February 2018, due to illness, but had received authorization from an emergency room physician to return to work. Company policy required however, that the claimant be verified as able to return to work by a company doctor, based on the number of days that he had been absent.

Although Mr. Morrison had been released to return to work by from an emergency room physician and indicated that he was returning, Mr. Morrison nonetheless still considered himself to be too ill to return. Mr. Morrison felt an obligation to return to work because the facility was short staffed and his services were needed.

It appears that the Facility Manager's inquiry about whether Mr. Morrison had seen the company doctor triggered previous dissatisfaction that Mr. Morrison had about a corrective action that had been given to him in mid-January, 2018. The claimant had received a verbal warning on October 3, 2017, for excessive tardiness. On December 22, 2017 and January 12, 2018, Mr. Morrison again was given corrective actions for excessive tardiness. Mr. Woods, the Facility Manager, chose to categorize the January 12, 2018, as a "final written warning" in lieu of issuing the claimant a final written warning and suspension at that time. Mr. Woods concluded that it was in the best interest of Mr. Morrison and the company to not impose the three day suspension from work as the company was short staffed and Mr. Woods believed that Mr. Morrison would benefit because he could continue to work, instead of being suspended without pay. It appears that the previous warning that had been given to Mr. Morrison on December 22, 2017, was also categorized as a final warning by the Facility Manager.

Under established company policy, if an employee properly notifies the employer of an absence due to illness, the absence is excused and is not used to discharge the employee or to further consider as a disciplinary event.

Mr. Morrison continued to feel ill at that time and felt that because he had been placed on a "final warning" that any further absences, even for illness, would result in his immediate termination from employment. The claimant felt that Mr. Woods did not have the authorization to impose a final warning without the three day suspension from work. Mr. Morrison considered the action to jeopardize his employment, and be a violation of the bargaining agreement.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 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. 871-24.25(28) 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:
>
> (28) The claimant left after being reprimanded.

In the case at hand, Mr. Morrison resigned his position with Alter Trading Corporation, due to ongoing dissatisfaction with a reprimand that had been given to him approximately three weeks earlier. The reprimand had been given to the claimant based upon his repetitive tardiness in reporting to work. Claimant had previously received a similar warning from the employer on December 22, 2017. The employer elected not to impose a three day suspension from work in conjunction with the warning that had been served upon Mr. Morrison on January 12, 2018, because the Facility Manager felt that it would be a benefit for both Mr. Morrison and to the company to allow him to report for work at that time instead of being suspended without pay. Mr. Morrison resigned later when the employer made an inquiry about whether the claimant received authorization from the company doctor return after a later bout of illness.

Both the final warning had the same effect except that the claimant was not precluded from working and receiving pay for three days. Absences due to illness that were properly reported would not be counted against Mr. Morrison under either the final warning with the suspension or the final warning without the suspension.

The administrative law judge concludes that Mr. Morrison's illness at the time may have played some part in his decision to resign, because he felt that any additional absences could result in his termination. Under company policy, the claimant would not be subject to disciplinary action or termination for absences due to illnesses that were properly reported. Good cause attributable to the employer for leaving has not been shown. Benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefits amount and is otherwise eligible.

DECISION:

The representatives unemployment insurance decision dated February 26, 2018, reference 01 is affirmed. Claimant left employment without good cause attributable to the employer. Unemployment insurance benefits are withheld until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount and is otherwise eligible.

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Terry P. Nice
Administrative Law Judge

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Decision Dated and Mailed

tn/scn