

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

ARTHUR T SWAFFORD
Claimant

WINDSOR WINDOW COMPANY
Employer

APPEAL NO. 20A-UI-11536-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 06/21/20
Claimant: Appellant (2)**

Iowa Code § 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated September 16, 2020, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on November 12, 2020. Claimant participated. Employer failed to respond to the hearing notice and did not participate.

ISSUES:

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 January 16, 2020. After his shift that morning, claimant went through an evaluation with his new facilities manager, Karl. Karl gave claimant a negative job evaluation and told claimant that he would be off from work until Monday while employer evaluated what they were going to do with him.

On Monday, claimant called up employer and left a message that he would not be able to be at the midday meeting as he had school at that time. Claimant did not show or call off his shift. Claimant did not show for work after that date as he didn't hear anything further from employer. Claimant felt as though he was either fired on January 16, 2020 or he was going to be fired at the meeting on Monday.

Claimant stated that employer had not followed proper procedures of warnings prior to his suspension. Claimant stated that at the time of hire he received an employee handbook listing steps of progressive discipline for various actions. Claimant had received no disciplinary write-ups or steps prior to his suspension.

REASONING AND CONCLUSIONS OF LAW:

The initial decision in this matter is whether claimant quit or was terminated from his job. Based on the evidence presented by claimant, he quit his employment as he felt he was going to be

fired. Claimant offered no proof that he was certain to be fired at the meeting on Monday. Until a time occurred when claimant was told of his termination, his assumption that he was going to be fired was nothing more than an assumption. Therefore, this matter must be looked at as a voluntary quit.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

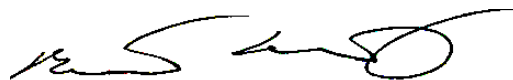
1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

The administrative law judge holds that the evidence has established that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because employer did not act within company procedures in suspending him for poor job performance without prior warnings.

Ordinarily "good cause" is derived from the facts of each case keeping in mind the public policy stated in Iowa Code Section 96.2. *O'Brien v. EAB* 494 N.W.2d 660, 662 (Iowa 1993) (citing *Wiese v. IA Dept. of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986)). "The term encompasses real circumstances, adequate excuses that will bear the test of reason, just grounds for the action, and always the test of good faith." *Wiese v. IA Dept. of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986). "Common sense and prudence must be exercised in evaluating all of the circumstances that led to an employee's quit in order to attribute the cause for the termination." *Id.* Here, claimant reasonably assumed that employer had decided to not follow company guidelines he was given at the time of hire. Claimant read progressive disciplinary steps to be followed prior to a suspension, and employer offered no reason as to why those steps were not followed. As employer did not act within company policy in suspending claimant for two days while employer contemplated claimant's future, claimant was reasonable when he had no faith that employer would follow written procedures prior to termination. For that reason claimant quit with good cause attributable to employer.

DECISION:

The decision of the representative dated September 16, 2020, reference 01, is reversed. Unemployment insurance benefits are allowed provided claimant is otherwise eligible.



Blair A. Bennett
Administrative Law Judge

November 19, 2020
Decision Dated and Mailed

bab/scn