

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**TYRE J SMITH**  
Claimant

**SECURITAS SECURITY SERVICES USA**  
Employer

**APPEAL 20A-UI-05197-S1-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 04/05/20**  
**Claimant: Appellant (2)**

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Iowa Code § 96.5-2-a – Discharge for Misconduct  
Iowa Code § 96.5-1 - Voluntary Quit

**STATEMENT OF THE CASE:**

Tyre Smith (claimant) appealed a representative's May 26, 2020, decision (reference 01) that concluded ineligibility to receive unemployment insurance benefits due to voluntarily quitting with the Securitas Security Services USA (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on June 30, 2020. The claimant participated personally. The employer was represented by Thomas Kuiper, Hearings Representative, participated by Jennifer Johnson, Account Manager, and Christopher Bevard, Shift Supervisor.

The claimant offered and Exhibit A was received into evidence. The administrative law judge took official notice of the administrative file.

**ISSUE:**

The issues include whether the claimant was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on April 7, 2016, as a full-time security guard. The claimant was in contact with various people at his client location. When the pandemic started, the claimant repeatedly asked his supervisor for protective gear. The claimant asked for masks, disinfectant, gloves, and hand sanitizer. The client location where the claimant worked previously had disinfectant but ran out. The client's employees brought their own gloves to work. The supervisor did not respond to the claimant's five or six requests. The claimant also asked for a change in policy about rotating staff into his location from other places with a high exposure rate. The policy did not change.

The employer sent out a message to all employees notifying them that they should stay home if they showed any Covid-19 symptoms. After that, on February 19, 2020, the employer sent out

an attendance standard stating that employees who were absent from work would be issued reprimands, suspensions, and/or terminations.

On April 3, 2020, the claimant's supervisor came to the claimant's small work area for approximately ten minutes. The supervisor came to work sick and coughing without wearing a mask. On April 4, 2020, the claimant quit work for placing him in a dangerous work condition without providing him proper protective equipment. Continued work was available had the claimant not resigned.

The claimant filed for unemployment insurance benefits with an effective date of April 5, 2020. His weekly benefit amount was determined to be \$210.00. He received no state unemployment insurance benefits or Federal Pandemic Unemployment Compensation after his separation from employment.

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

For the following reasons the administrative law judge concludes the claimant voluntarily quit work 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:

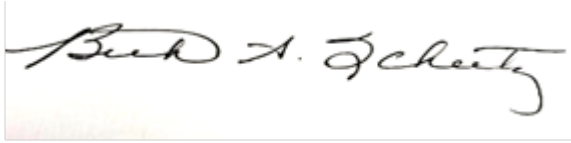
Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

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

The law presumes a claimant has left employment with good cause when he quits because of intolerable or detrimental working conditions. 871 IAC 24.26(4). The Iowa Supreme Court has stated that a notice of intent to quit is not required when the employee quits due to intolerable or detrimental working conditions. *Hy-vee, Inc. v. Employment Appeal Board and Diyonda L. Avant*, (No. 86/04-0762) (Iowa Sup. Ct. November 18, 2005). The claimant repeatedly notified the employer of the working conditions and the need for personal protective equipment. The claimant subsequently quit due to those conditions. The claimant should not have had to ask for masks, gloves, hand sanitizer, and disinfectant. The supervisor and account manager should have been making certain those items were stocked and being used. The claimant is eligible to receive unemployment insurance benefits, provided he meets all the qualifications.

**DECISION:**

The representative's May 26, 2020, decision (reference 01) is reversed. The claimant voluntarily quit with good cause attributable to the employer. Benefits are allowed, provided claimant is otherwise eligible.

A handwritten signature in black ink that reads "Beth A. Scheetz". The signature is written in a cursive style and is positioned above a horizontal line.

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Beth A. Scheetz  
Administrative Law Judge

July 9, 2020  
Decision Dated and Mailed

bas/scn