

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MATTHEW CALVERT
Claimant

RJK INC
Employer

APPEAL 20A-UI-08317-HP-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 04/12/20
Claimant: Appellant (3)**

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Claimant Matthew Calvert filed an appeal from a June 23, 2020 (reference 01) unemployment insurance decision that denied benefits for voluntarily quitting his work with RJK, Inc. (“RJK”) on January 11, 2020. The parties were properly notified of the hearing. A telephone hearing was held on August 26, 2020. Calvert appeared and testified. Mike Thomas and Alicia McGlothlen appeared and testified on behalf of RJK. Exhibit 1 was admitted into the record. I took administrative notice of the claimant’s unemployment insurance benefits records maintained by Iowa Workforce Development.

ISSUE:

Was the separation a layoff, discharge for misconduct or voluntary quit without good cause?

FINDINGS OF FACT:

On August 20, 2019, Calvert commenced full-time employment as a lab technician with RJK. His immediate supervisor was Scott Wheat.

On January 7, 2020, Calvert attended a meeting with Wheat, Cindy Sparks, the head of the laboratory where Calvert worked, and McGlothlen, another supervisor, to discuss performance issues. RJK informed Calvert he was receiving a written warning for performance issues, including missing lab runs, not performing lab runs when asked, and not wearing his safety glasses. Thomas and McGlothlen testified during the conversation Calvert stood up and said he wanted to get his things and he left the building. Thomas testified Calvert was not in danger of being discharged on January 7, 2020, and that continuing work was available to him.

Calvert denied that he refused to wear his safety glasses at work and testified he always wore proper personal protective equipment at work. Calvert reported he was forced out on January 7, 2020, and that he had not been counseled or disciplined before. Calvert reported Wheat told him he had been doing a good job at work and claimed he believed RJK forced him out because he challenged benefits and supported unionization.

During the hearing I assessed the credibility of the parties by considering whether their testimony was reasonable and consistent with other evidence I believe, whether they had made inconsistent statements, their “appearance, conduct, memory and knowledge of the facts,” and their interest in the case. State v. Frake, 450 N.W.2d 817, 819 (Iowa 1990). I do not find Calvert’s testimony reasonable and consistent with the other evidence I believe. I do find the testimony from Thomas and McGlothlen reasonable and consistent with the other evidence I believe.

Calvert has an interest in the outcome of this case because he is seeking unemployment benefits. Thomas and McGlothlen have an interest in this case because they work for RJK. Contemporaneous records from January 7, 2020, support the testimony from Thomas and McGlothlen. Calvert presented no evidence his job was in jeopardy or that he had been disciplined in the last. He did not allege at hearing anyone at RJK had discriminated against him in employment. Other documentation in Exhibit 1 also supports that he had ongoing problems with not wearing his safety glasses before January 7, 2020.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5(1) provides an individual “shall be disqualified for benefits, regardless of the source of the individual’s wage credits: . . . If the individual has left work voluntarily without good cause attributable to the individual’s employer, if so found by the department.” The Iowa Supreme Court has held a “voluntary quit” means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer.” *Wills v. Emp’t Appeal Bd.*, 447 N.W.2d 137, 138 (Iowa 1989). A voluntary quit requires “an intention to terminate the employment relationship accompanied by an overt act carrying out the intent.” *Peck v. Emp’t Appeal Bd.*, 492 N.W.2d 438, 440 (Iowa Ct. App. 1992). “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. Indus. Relations Comm’n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). The employer has the burden of proving that a claimant’s departure from employment was voluntary. *Irving v. Emp’t Appeal Bd.*, 883 N.W.2d 179 (Iowa 2016).

871 Iowa Administrative Code -24.25(21) 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.

24.25(21) The claimant left because of dissatisfaction with the work environment.

871 Iowa Administrative Code 24.26(4) also 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:

24.26(4) The claimant left due to intolerable or detrimental working conditions.

Calvert walked out of RJK on January 7, 2020, when he was being disciplined. Calvert was not in jeopardy of losing his job, being subject to layoff, and there was continuing work available to him. There is no evidence RJK discharged him. There is no evidence RJK discriminated against

Calvert based on a protective class, or that RJK subjected him to intolerable or detrimental working conditions, where a reasonable person would feel compelled to quit. I find Calvert's separation from RJK was personal and without good cause attributable to RJK. Benefits are denied.

Pandemic Unemployment Assistance (“PUA”) Under the Federal CARES Act

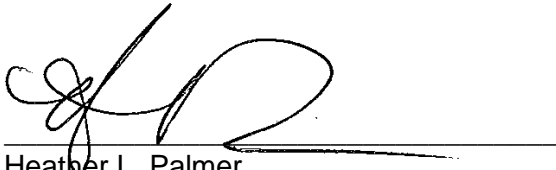
Even though the claimant is not eligible for regular unemployment insurance benefits under state law, the claimant may be eligible for federally funded unemployment insurance benefits under the CARES Act. Section 2102 of the CARES Act creates a new temporary federal program called Pandemic Unemployment Assistance (“PUA”) that may provide up to 39 weeks of unemployment benefits. An individual receiving PUA benefits may also receive an additional \$600 weekly benefit amount under the Federal Pandemic Unemployment Compensation (“FPUC”) program if the individual is eligible for PUA benefits for the week claimed. The FPUC additional \$600 payment per week ends as of July 25th in Iowa. This means the \$600 weekly additional benefit will stop and at this time, no extension or change to the program has been made by Congress at this time. This does mean that you will see a corresponding decrease in your weekly benefit amount. The FPUC payments are not a state benefit and Iowa is unable to make any changes to the availability of this benefit. If a change takes place to this benefit in the future, IWD will share on the IWD website and social media. This decision does not address whether the claimant is eligible for PUA. If the claimant wishes to receive PUA benefits, the claimant must apply for PUA, as noted in the instructions provided in the “Note to Claimant” below:

Note to Claimant: If this decision determines you are not eligible for regular unemployment insurance benefits and you disagree with this decision, you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits, but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (“PUA”). **You will need to apply for PUA to determine your eligibility under the program. Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.** This decision denies benefits. If this decision becomes final or if you are not eligible for PUA, you may have an overpayment of benefits.

DECISION:

Regular Unemployment Insurance Benefits Under State Law

The June 23, 2020 (reference 01) unemployment insurance decision denying unemployment insurance benefits is modified in favor of the employer/respondent. Claimant voluntarily quit the claimant's employment with the employer on January 7, 2020. Unemployment insurance benefits are denied until the claimant has worked in and earned wages for insured work equal to ten times the claimant's weekly benefit amount after the claimant's separation date, and provided the claimant is otherwise eligible.



Heather L. Palmer
Administrative Law Judge
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August 31, 2020
Decision Dated and Mailed

hlp/mh