

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

**BRENT A HIGGINS**

Claimant

**APPEAL NO. 19A-UI-00942-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**PACKERS SANITATION SERVICES INC**

Employer

**OC: 01/06/19**

**Claimant: Appellant (2)**

Iowa Code Section 96.5(1) – Voluntary Quit

**STATEMENT OF THE CASE:**

Brent Higgins filed a timely appeal from the January 29, 2019, reference 01, decision that held he was disqualified for unemployment insurance benefits and the employer's account would not be charged for benefits, based on the deputy's conclusion that Mr. Higgins voluntarily quit on October 5, 2018 without good cause attributable to the employer. After due notice was issued, a hearing was held on February 15, 2019. Mr. Higgins participated. The employer did not comply with the hearing notice instructions to register a telephone number for the hearing and did not participate. Exhibit A was received into evidence.

**ISSUE:**

Whether Mr. Higgins' voluntary quit was for good cause attributable to the employer.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Brent Higgins was employed by Packers Sanitation Services, Inc. (PSSI) as a full-time Chemical Specialist from 2015 until October 5, 2018, when he voluntarily quit. Mr. Higgins was assigned to the JBS hog processing plant in Marshalltown. Mr. Higgins' work hours were 10:00 p.m. to 10:00 a.m. seven days per week. Throughout the employment, Mr. Higgins' duties involved mixing the various cleaning chemicals that PSSI used to clean and sanitize the JBS plant. Mr. Higgins spent all of his shift in the "chemical cage." Mr. Higgins frequently handled toxic and caustic chemicals. Mr. Higgins wore personal protective equipment (PPE) that included three layers of gloves and a rain suit type jacket and slacks. The chemicals Mr. Higgins handled regularly splashed on the protective gear and regularly ate through the protective clothing. The caustic chemicals would burn Mr. Higgins' skin on contact. Mr. Higgins would usually learn of holes in the protective suit when he experienced a burning sensation on his skin. Mr. Higgins received a new protective suit weekly. If chemicals ate through the protective suit before the week was up, Mr. Higgins would have to request a new protective suit. Mr. Higgins would often have to wait a day or two to receive a new protective suit and suffer chemical burns in the meantime. Mr. Higgins suffered a chemical burn to his knee a week before he gave his quit notice and had to wait until the next shift to obtain a new pair of protective slacks. There were ongoing issues with the floor drain where Mr. Higgins performed

his work duties. This resulted in chemicals pooling in the drain area and sometimes resulted in chemical interactions that gave off noxious vapors/fumes. Mr. Higgins repeatedly complained to his supervisor about the drain, but the drain issues remained unresolved. Mr. Higgins was aware that some of the chemicals he handled were known carcinogens. Mr. Higgins had on occasion experienced pain in his lungs after breathing noxious fumes at work. Mr. Higgins and his doctor were concerned for Mr. Higgins' long-term health in light of his exposure to toxic chemicals.

Toward the end of the employment, Mr. Higgins' family encouraged him to leave the employment. Mr. Higgins' family resides in Ankeny. Mr. Higgins' family encouraged Mr. Higgins to move to Ankeny and look for work in the Des Moines metropolitan area. In September 2018, Mr. Higgins moved from Marshalltown to Ankeny. Mr. Higgins continued to work for PSSI at the JBS plant in Marshalltown for three more weeks. At about the same time Mr. Higgins moved to Ankeny, he gave notice to PSSI that he would be leaving the employment. Mr. Higgins trained his replacement before separating from the employment.

### **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:

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.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 698, 612 (Iowa 1980) and *Peck v. EAB*, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

A voluntary quit to move to a new locality is presumed to be without good cause attributable to the employer. Iowa Administrative Code rule 871-24.25(2). A voluntary quit due to unsafe working conditions is deemed to be with good cause attributable to the employer. Iowa Administrative Code rule 871-24.26(2). Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. Iowa Administrative Code rule 871-24.26(4). The test is whether a reasonable person would have quit under the circumstances. See *Aalbers v. Iowa Department of Job Service*, 431 N.W.2d 330 (Iowa 1988) and *O'Brien v. Employment Appeal Bd.*, 494 N.W.2d 660 (1993). Aside from quits based on medical reasons, prior notification of the employer before a resignation for intolerable or detrimental working conditions is not required. See *Hy-Vee v. EAB*, 710 N.W.2d (Iowa 2005).

The weight of the evidence in the record establishes that Mr. Higgins voluntarily quit on October 5, 2018 for good cause attributable to the employer. The findings of fact outline the unsafe, intolerable and detrimental working conditions that were ongoing and that prompted Mr. Higgins to leave the employment. A reasonable person would have left the employment under the circumstances. Mr. Higgins' move to Ankeny was secondary to his decision to remove himself from the unsafe work environment. Mr. Higgins is eligible for benefits, provided he meets all other eligibility requirements. The employer's account may be charged for benefits.

**DECISION:**

The January 29, 2019, reference 01, decision is reversed. The claimant voluntarily quit the employment on October 5, 2018 with good cause attributable to the employer. The claimant is eligible for benefits, provided he meets all other eligibility requirements. The employer's account may be charged for benefits

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

jet/rvs