

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

PROSPER LUTANDA
Claimant

APPEAL NO. 19A-UI-01848-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

IOWA PREMIUM LLC
Employer

OC: 02/10/19
Claimant: Appellant (2)

Iowa Code Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Lutanda Prosper filed a timely appeal from the February 26, 2019, reference 01, decision that disqualified him for benefits and that stated the employer's account would not be charged for benefits, based on the deputy's conclusion that Mr. Lutanda voluntarily quit on February 8, 2019 without good cause attributable to the employer. After due notice was issued, a hearing was held on March 18, 2019. Mr. Prosper participated and presented additional testimony through Jessica Cancel. The employer did not register a telephone number for the hearing and did not participate. Swahili-English interpreter Mohamed Hassan of CTS Language Link assisted with the hearing. Exhibit A was received into evidence.

ISSUE:

Whether Mr. Lutanda's 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: Prosper Lutanda was employed by Iowa Premium, L.L.C. as a full-time beef production worker from April 2018 until February 8, 2019, when he voluntarily quit. Mr. Lutanda worked in the slaughter department. Mr. Lutanda's primary duties were cleaning up blood as part of the production process. Mr. Lutanda's shift started at 7:30 a.m. and ended when the day's production was complete. Production might end at 6:30 p.m., earlier, or later, depending the day's production and whether production equipment was operating properly. William Sanchez was in charge of the slaughter area and was Mr. Lutanda's immediate supervisor.

On February 8, 2018, Mr. Lutanda arrived for work at 7:00 a.m. Mr. Lutanda was soon thereafter summoned to meet with a manager above Mr. Sanchez. The manager asserted that Mr. Lutanda had been late for work. The manager presented Mr. Lutanda with a written reprimand based on the purported late arrival. Mr. Lutanda was adamant he had not been late and refused to sign the written reprimand. By signing the written reprimand, Mr. Lutanda would be agreeing that he had indeed been late for work and would not be merely acknowledging receipt of the reprimand. The written reprimand was Mr. Lutanda's second reprimand. A third reprimand would subject Mr. Lutanda to discharge from the employment. Following,

Mr. Lutanda refusal to sign the written reprimand, Mr. Lutanda and Mr. Sanchez desired for Mr. Lutanda to return to his work duties. However, the manager and the human resources representative required that Mr. Lutanda either sign the reprimand or leave the workplace. Mr. Lutanda elected to leave the workplace. A couple days later a human resources representative called Mr. Lutanda to ask whether he would be signing the reprimand and returning to work. When Mr. Lutanda stated that he would not be signing the reprimand, the human resources representative told Mr. Lutanda that he could apply again in three months.

REASONING AND CONCLUSIONS OF LAW:

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.

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. 871-24.25(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.

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See 871 IAC 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).

Because the employer did not participate in the appeal hearing, the evidence in the record is limited to the evidence presented by Mr. Lutanda. That evidence establishes a voluntary quit for good cause attributable to the employer. Though the evidence establishes a voluntary quit in response to a reprimand, there was more to it than that. In this instance, the employer required that Mr. Lutanda sign the reprimand to indicate agreement with the reprimand or separate from

the employment. Under the circumstances, the employer's requirement that Mr. Lutanda sign to indicate his *agreement* with the reprimand added an intolerable and detrimental condition to the employment that could have prompted a reasonable person to leave the employment. Mr. Lutanda is eligible for benefits provided he meets all other eligibility requirements. The employer's account may be charged for benefits.

DECISION:

The February 26, 2019, reference 01, decision is reversed. The claimant quit the employment on February 8, 2019 for 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.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/rvs