

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LAWRENCE E TAYLOR**

Claimant

**APPEAL NO: 18A-UI-06560-JC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**QPS EMPLOYMENT GROUP INC**

Employer

**OC: 05/06/18**

**Claimant: Appellant (2)**

Iowa Code § 96.5(1) – Voluntary Quitting

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the June 11, 2018, (reference 01) unemployment insurance decision that concluded he is disqualified for unemployment insurance benefits. A telephone hearing was held on July 2, 2018. The hearing was held jointly with Appeal 18A-UI-06561-JC-T. The claimant participated. Mai Lor represented the employer. Angela McCardle, placement coordinator, testified. Employer Exhibit 1 was admitted. The administrative law judge took official notice of the administrative records including the fact-finding documents. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Did the claimant voluntarily quit the employment with good cause attributable to the employer?

**FINDINGS OF FACT:**

The claimant filed a new claim for unemployment insurance benefits with an effective date of May 6, 2018.

The claimant was injured at the workplace and was issued restrictions from the treating physician which included not being able to lift more than 30 pounds and not being able to grip or twist. The claimant was unable to do his existing job in production with the restrictions. He notified the employer on April 23, 2018. The employer in response offered the claimant light duty work which included sitting and watching safety videos, at the same hours and wages as his last assignment. The employer however, required the claimant to go to its Cedar Rapids office to perform the light duty assignment.

The claimant's home and job assignment were located in Iowa City, and the employer's local staffing office is located in Cedar Rapids. The claimant does not possess a license to drive and had used his bike to transport himself to/from his job assignment in Iowa City since 2016 when he started employment. The claimant explained to the employer that he did not have transportation to Cedar Rapids and could not perform the light duty assignment there. The

employer only has one client located in the state of Iowa and therefore cannot reassign employees who are removed or unable to perform work at their client's site.

The employer did not offer the claimant an alternative location or transportation and deemed the claimant to have voluntarily quit.

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

For the reasons that follow, the administrative law judge concludes the claimant voluntarily quit the employment with good cause attributable to the employer. Benefits are allowed, provided he is otherwise eligible.

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(6)b 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:

(6) Separation because of illness, injury, or pregnancy.

b. Employment related separation. The claimant was compelled to leave employment because of an illness, injury, or allergy condition that was attributable to the employment. Factors and circumstances directly connected with the employment which caused or aggravated the illness, injury, allergy, or disease to the employee which made it impossible for the employee to continue in employment because of serious danger to the employee's health may be held to be an involuntary termination of employment and constitute good cause attributable to the employer. The claimant will be eligible for benefits if compelled to leave employment as a result of an injury suffered on the job.

In order to be eligible under this paragraph "b" an individual must present competent evidence showing adequate health reasons to justify termination; before quitting have informed the employer of the work-related health problem and inform the employer that the individual intends to quit unless the problem is corrected or the individual is reasonably accommodated. Reasonable accommodation includes other comparable work which is not injurious to the claimant's health and for which the claimant must remain available.

The claimant has the burden of proof to establish he quit with good cause attributable to the employer, according to Iowa law. 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. 871 IAC 24.25. "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. Industrial Relations Commission*, 277 So.2d 827 (Fla. App. 1973). 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).

It is the duty of the administrative law judge as the trier of fact in this case, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *Id.* In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other believable evidence; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *Id.* After assessing the credibility of the claimant who testified during the hearing, considering the applicable factors listed above, and using her own common sense and experience, the administrative law judge finds the weight of the evidence in the record establishes claimant has met his burden of proof to establish he quit for good cause reasons within Iowa law.

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. 871 IAC 24.26(4). While a claimant does not have to specifically indicate or announce an intention to quit if her concerns are not addressed by the employer, for a reason for a quit to be "attributable to the employer," a claimant faced with working conditions that she considers intolerable, unlawful or unsafe must normally take the reasonable step of notifying the employer about the unacceptable condition in order to give the employer reasonable opportunity to address his concerns. *Hy-Vee Inc. v. Employment Appeal Board*, 710 N.W.2d 1 (Iowa 2005); *Swanson v. Employment Appeal Board*, 554 N.W.2d 294 (Iowa 1996); *Cobb v. Employment Appeal Board*, 506 N.W.2d 445 (Iowa 1993). If the employer subsequently fails to take effective action to address or resolve the problem it then has made the cause for quitting "attributable to the employer."

In this case, the claimant was injured on the job and issued light duty restrictions by a treating doctor. He made the employer aware of the restrictions and the employer responded by offering him light duty work in Cedar Rapids, even though the claimant resides in Iowa City, and has only worked for the employer in Iowa City. The claimant informed the employer that he did not have transportation to drive to Cedar Rapids as he has ridden his bike to his assignment in Iowa City since 2016. His history establishes he can perform work within biking distance of Iowa City.

Based on the evidence presented, the administrative law judge concludes the accommodation for light duty work offered by the employer was not a "reasonable accommodation" inasmuch as the claimant's employment history with the employer demonstrates he works in Iowa City and has a known transportation issue if assignments are outside of the Iowa City vicinity. The claimant did not lose transportation or a license which prevented him from getting to/from work; rather he has for over two years relied upon a bike for transportation and accordingly cannot accept work or assignments outside of biking range. The administrative law judge is not persuaded the claimant was reasonably obligated to coordinate transportation to Cedar Rapids each day he was assigned work after incurring a work-related injury, and after informing the employer that he could not drive to Cedar Rapids daily. When the claimant made the employer aware of why he could not go to Cedar Rapids, the employer made no efforts to help the

claimant preserve employment. The claimant has established he quit the employment for a good cause reason attributable to the employer. Accordingly, benefits are allowed, provided he is otherwise eligible.

**DECISION:**

The June 11, 2018, (reference 01) unemployment insurance decision is reversed. The claimant voluntarily left the employment with good cause attributable to the employer. Benefits are allowed, provided he is otherwise eligible and the benefits withheld shall be paid.

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Jennifer L. Beckman  
Administrative Law Judge

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Decision Dated and Mailed

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