

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ALEXANDER SPIKER,
Claimant

**DIA APPEAL NO. 22IWDUI0050
APPEAL 21A-UI-19061**

HUFFMAN WELDING & MACHINE, INC.,
Employer

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 08/30/20
Claimant: APPELLANT (2)**

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

STATEMENT OF THE CASE:

The Claimant/Appellant filed an appeal from the August 18, 2021 (reference 02) unemployment insurance decision that held Claimant ineligible for unemployment insurance benefits. The parties were properly notified about the hearing. A telephone hearing was held on November 12, 2021. Claimant, Mr. Alexander E. Spiker, participated personally. His wife, Ms. Linda Spiker, also testified. The Employer, Huffman Welding & Machine, Inc., (Huffman), did not appear and did not participate. Neither party submitted any exhibits.

ISSUES:

Did claimant voluntarily quit the employment with good cause attributable to employer?
Was claimant discharged for misconduct?

FINDINGS OF FACT:

For the reasons that follow, the administrative law judge concludes the Claimant quit employment for reasons attributable to the employer. Benefits are allowed.

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time as a welder or fabricator by Huffman. Generally, he was hired to pound or hammer and then weld products on the manufacturing line. The products would then move on to others at the facility for Huffman. He was hired on January 6, 2021, and the employer liked his work.

However, Appellant began to fatigue at work, to the point he visited his physician. After testing him, Dr. Sonu Dhillon, a gastroenterologist, advised to stop working. Claimant was, in his words, diagnosed with a "bad" gallbladder and gallstones which blocked or interfered with his bile duct (choledocholithiasis) causing pancreatitis. He was, in fact, hospitalized in order to have the gallstones removed. The chronic pancreatitis, in turn, caused autoimmune issues. Testing by means of an immunoglobulin subclass 4 test confirmed the autoimmune pancreatitis. Further, the choledocholithiasis resulted in bile backing up into the liver creating a cirrhotic

effect. There was also a sepsis event and a hardening of the enteral lining. Dr. Dhillon advised Claimant not to return to work as he could not perform the physical labor-intensive work at Huffman. (Appeal.).

His last day of work for Huffman, and the date of his separation of employment, was June 3, 2021. Previously, Huffman would assign Claimant a fixed schedule, with set hours, Monday through Friday. It was an indefinite employment relationship, i.e. it was not scheduled to only last a set or certain amount of time or defined by completion of any particular project(s).

Claimant does not deny that he quit Huffman. Further, there was other work for him. However, he maintains the quit was due to his medical condition(s). Claimant testified that he immediately informed Huffman. Then, according to Claimant, he had to quit and Huffman was disappointed to see him leave – they even requested that he apply if he was able to return in the future.

Huffman did not appear or present witnesses to contradict or rebut Claimant's testimony. It is noted that Huffman emailed the undersigned after the hearing to see about options for input to the hearing – there was an inadvertent error in scheduling by Huffman. However, the record was closed by that time. Instructions to appeal are on the cover page to this decision.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge finds that the claimant voluntarily quit with good cause attributable to the employer.

Iowa Code §96.5(1)(d) provides:

An individual shall be disqualified for benefits:

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. But the individual shall not be disqualified if the department finds that: . . . d. The individual left employment because of illness, injury, or pregnancy upon the advice of a licensed and practicing physician, and upon knowledge of the necessity for absence immediately notified the employer, or the employer consented to the absence, and after recovering from the illness, injury, or pregnancy, when recovery was certified by a licensed and practicing physician, the individual returned to the employer and offered to perform services and the individual's regular work or comparable suitable work was not available, if so found by the department, provided the individual is otherwise eligible.

A voluntary quitting means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer and requires an intention to terminate the employment. *Wills v. Emp't Appeal Bd.*, 447 N.W. 2d 137, 138 (Iowa 1989). A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992). In this case, the Claimant voluntarily quit his employment. As such, Claimant must prove that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(1). "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).

Iowa Admin. Code r. 871-24.26(6)(a)(96) provides:

The following are reasons for a claimant leaving employment with good cause attributable to the employer: . . . Separation because of illness, injury, or pregnancy.

Nonemployment related separation. The claimant left because of illness, injury or pregnancy upon the advice of a licensed and practicing physician. Upon recovery, when recovery was certified by a licensed and practicing physician, the claimant returned and offered to perform services to the employer, but no suitable, comparable work was available. Recovery is defined as the ability of the claimant to perform all of the duties of the previous employment.

Here, Claimant testified that he quit due to his medical issues. His appeal statement and his testimony indicated the separation of employment was advised by Dr. Dhillon. Further, he immediately notified Huffman. Huffman accepted the quit and offered him a job when he was able to work.

No witness from Huffman appeared to rebut or offer contradictory evidence. "The purpose of our unemployment compensation law is to protect from financial hardship workers who become unemployed through no fault of their own. See Iowa Code § 96.2. We are to construe the provisions of that law liberally to carry out its humane and beneficial purpose." *Bridgestone/Firestone, Inc. v. Emp. Appeal Bd.*, 570 N.W.2d 85, 96 (Iowa 1997) (citation omitted).

Accordingly, Claimant is entitled to benefits.

DECISION:

The August 18, 2021 (reference 02) unemployment insurance decision is reversed. The Claimant voluntarily left the employment with good cause attributable to the employer. Benefits are allowed, provided the Claimant is otherwise eligible.



Forrest Guddall
Administrative Law Judge
Iowa Department of Inspection and Appeals
Wallace State Office Building, Third Floor
Des Moines, IA 50319

November 16, 2021

Decision Dated and Mailed

FG/aa

CC: Alexander Spiker, Claimant (by first class mail)
Huffman Welding & Machine, Inc, Employer (by first class mail)
Natali Atkinson, IWD (email)
Joni Benson, IWD (email)

Case Title: SPIKER V. HUFFMAN WELDING & MACHINE INC
Case Number: 22IWDUI0050
Type: Proposed Decision

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read 'Forrest Guddall', written in a cursive style.

Forrest Guddall, Administrative Law Judge