

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**BEN A DAVIS**  
Claimant

**MANKO WINDOW SYSTEMS INC**  
Employer

**APPEAL 21A-UI-05611-AD-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 01/10/21  
Claimant: Appellant (1)**

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Iowa Code § 96.5(1) – Voluntary Quitting

**STATEMENT OF THE CASE:**

On February 19, 2021, Ben Davis (claimant/appellant) filed a timely appeal from the Iowa Workforce Development decision dated February 16, 2021 (reference 01) that denied benefits based on a finding claimant voluntarily quit work on January 11, 2021 without good cause attributable to employer.

A telephone hearing was held on April 26, 2021. The parties were properly notified of the hearing. The claimant participated personally. Manko Window Systems, Inc. (employer/respondent) participated by HR Assistant Kass Johnson.

Official notice was taken of the administrative record.

**ISSUE(S):**

- I. Was the separation from employment a layoff, discharge for misconduct, or voluntary quit without good cause?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant's first day of employment was October 7, 2019. He worked full-time as an edgework supervisor until January 4, 2021. Claimant's immediate supervisor was Mike Osborn. Claimant voluntarily quit on January 11, 2021.

Claimant resigned in an email to the production supervisor on January 11, 2021. In that email, claimant gave the reasons for his quitting as conflicts with Osborn; rumors about his stealing from employer; what he described as "sexual tension" in the workplace; and his being removed from the edgework supervisor role. Notably, claimant did not list employer's COVID-19 policies and enforcement of those policies as reasons for resigning.

Claimant was removed from the edgework supervisor role on January 4, 2021. He was removed after coming to Johnson on December 7, 2020, and asking if he would lose his job if he were to step down from the supervisor position. Claimant was considering stepping down from the

decision because of his feeling that Osborn was undermining him and not communicating with him well. Johnson told claimant he would not lose his job if he chose to step down but that employer needed to know as soon as possible what his intentions were so it could plan accordingly. Johnson also asked claimant to talk to Osborn about his concerns and offered to be present during that conversation. Claimant declined to discuss his concerns directly with Osborn.

On December 28, 2020, after not hearing from claimant for several weeks regarding his intentions, Johnson went to Osborn to discuss the matter. She explained to Osborn that claimant was considering stepping down from the supervisor position because of the concerns raised in the December 7, 2020 meeting. She asked Osborn to talk to claimant to try to work it out. Osborn did speak with claimant that day and asked him to provide a decision on whether he would step down by the following day, December 29, 2020. Claimant did not provide his decision to Osborn on that day, prompting Johnson to ask him again on that day what his decision was. During this conversation with Johnson, claimant continued to be non-committal about whether he intended to remain in the supervisor position.

Claimant was then off for several days. He returned to work on January 4, 2021. At that time, Osborn informed claimant that he had been removed from the supervisor position. Osborn indicated to claimant the decision was final. Claimant did not go to speak with Johnson about the decision to remove him. While Johnson and Osborn had told claimant on several occasions that they needed to know his decision, neither had informed claimant that if he did not make a decision he would be removed from the position involuntarily. Claimant would have maintained the same rate of pay after removal but less overtime work may have been available for him. Claimant called off from work the rest of that week.

Claimant's removal from the position troubled him in part because another employee who had implicitly threatened him about two months prior would now be his supervisor. The other employee, who claimant had supervised to that point, had been insubordinate with claimant on November 3, 2020. This included telling claimant he had been in the military and if claimant had a problem, they could take it outside. Claimant reported this to Johnson, who issued each an unsigned warning despite the other employee admitting he had made the statement as alleged. Claimant confirmed with Johnson that he was comfortable continuing to work with the other employee after that incident, and no further incidents occurred after that.

The "sexual tension" claimant complains of consisted of a female coworker allegedly having relationships with one or more male coworkers and implying to claimant that she may wish to have a relationship with him as well. Claimant did not consider the female coworker's conduct toward him to be sexual harassment and did not bring this issue to Johnson. Employer never accused claimant of stealing.

Employer provided PPE to employees and cleaned the work area nightly. Employees' workstations are six feet apart. Employer liberally allowed employees not to wear face coverings if they reported they had difficulty breathing in them. Many employees did report this and so were not required to wear face coverings. This concerned claimant, who brought this to the attention of Osborn. More employees wore face coverings for a short period of time thereafter but things regressed quickly. Claimant did not bring these concerns to Johnson prior to resigning.

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

For the reasons set forth below, the decision dated February 16, 2021 (reference 01) that denied benefits based on a finding claimant voluntarily quit work on January 11, 2021 without good cause attributable to employer is AFFIRMED.

Iowa Code section 96.5(1)a 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 provides in relevant part:

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:

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

(22) The claimant left because of a personality conflict with the supervisor.

(28) The claimant left after being reprimanded.

Iowa Admin. Code r. 871-24.26 provides in relevant part:

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:

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

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). "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". *Id.* (citing *Cook v. Iowa Dept. of Job Service*, 299 N.W.2d 698, 701 (Iowa 1980)).

"Good cause" for leaving employment must be that which is reasonable to the average person, not to the overly sensitive individual or the claimant in particular. *Uniweld Products v. Industrial Relations Commission*, 277 S.2d 827 (Florida App. 1973). While a notice of intent to quit is not required to obtain unemployment benefits where the claimant quits due to intolerable or detrimental working conditions, the case for good cause is stronger where the employee complains, asks for correction or accommodation, and employer fails to respond. *Hy-Vee Inc. v. EAB*, 710 N.W.2d 1 (Iowa 2005).

Iowa unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code §§ 96.5(1) and 96.5(2)a. A voluntary quitting of employment requires that an employee exercise a voluntary choice between remaining employed or terminating the employment

relationship. *Wills v. Emp't Appeal Bd.*, 447 N.W.2d 137, 138 (Iowa 1989); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438, 440 (Iowa Ct. App. 1992). 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).

Employer has carried its burden of proving claimant's departure from employment was voluntary. However, claimant has not carried his burden of proving the voluntary leaving was for good cause attributable to employer.

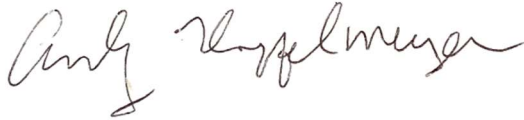
Claimant essentially alleges that his resignation was due to intolerable or detrimental working conditions. The administrative law judge finds claimant failed to raise many of the issues he complains of with HR and allow a chance for correction prior to resigning. A reasonable person would not have found the conditions so intolerable as to justify resigning without allowing a chance for correction. Notably, claimant did not raise the issues related to COVID-19 policies with HR prior to resigning or in the resignation letter. Also of note, claimant told employer he was comfortable working with the coworker who was to become his supervisor and there had been no recent issues with that coworker.

Employer tried to address the issues claimant did take to HR, specifically his feeling that Osborn was undermining him and not communicating with him well. However, claimant was not cooperative in attempts to address those. He declined to speak with Osborn about them and delayed for nearly a month in informing employer regarding whether he would step down from the supervisor position. After attempting on several occasions to clarify with claimant his intentions, employer finally made the decision to remove him from the position. This is because it needed some certainty about the status of the position, which claimant had not provided despite being repeatedly asked to do so. While employer had not specifically warned claimant that he may be removed if he did not make a decision, this was a reasonably foreseeable result in the circumstances.

The administrative law judge finds claimant's resignation is best described as being due to dissatisfaction with the work environment, due to a personality conflict with a supervisor, and due to a reprimand. These reasons are presumed to be without good cause attributable to employer and the administrative law judge finds they were without good cause here. Benefits are denied.

**DECISION:**

The decision dated February 16, 2021 (reference 01) that denied benefits based on a finding claimant voluntarily quit work on January 11, 2021 without good cause attributable to employer is AFFIRMED. Claimant's separation from employment was disqualifying. Benefits must be denied, and employer's account shall not be charged. This disqualification shall continue until claimant has earned wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is not otherwise disqualified or ineligible.



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Andrew B. Duffelmeyer  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
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May 6, 2021  
Decision Dated and Mailed

abd/kmj

**Note to Claimant:**

If you disagree with this decision, you may file an appeal with the Employment Appeal Board by following the instructions on the first page of this decision. If this decision denies benefits, you may be responsible for paying back benefits already received.

Individuals who are disqualified from or are otherwise ineligible for **regular** unemployment insurance benefits but who are 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.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.