

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JEREMY L WILES
Claimant

STEWARD DELL INC
Employer

APPEAL 18A-UI-12256-AW-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 12/02/18
Claimant: Appellant (2)**

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Admin. Code r. 871-24.26(3) – VQ - Unlawful working conditions

STATEMENT OF THE CASE:

Jeremy Wiles, Claimant, filed an appeal from the December 20, 2018 (reference 01) unemployment insurance decision that denied benefits because he voluntarily quit work with Steward Dell, Inc. for personal reasons. The parties were properly notified of the hearing. A telephone hearing was held on January 10, 2019 at 11:00 a.m. Claimant participated. Employer did not participate. Claimant's Exhibit A was admitted.

ISSUE:

Whether claimant's separation was a voluntary quit without good cause attributable to the employer.

FINDINGS OF FACT:

As claimant was the only witness, the administrative law judge makes the following findings of fact based solely upon claimant's testimony: Claimant was employed full-time as a commercial driver from November 7, 2018 until his employment with Steward Dell, Inc. ended on December 3, 2018. Claimant has a commercial driver's license. Claimant's direct supervisor was Steve Steward, Owner.

On November 30, 2018, employer asked claimant to drive a truck on a route that would exceed the hours of service restriction that applies to commercial drivers. Claimant believes exceeding the hours of service restriction is a violation of federal law. Employer has a commercial driver's license and is aware of the hours of service restriction. Claimant told employer that if claimant did as employer requested, claimant would violate the hours of service restriction. Employer directed claimant to drive the truck as requested.

Employer made previous requests of claimant that claimant believed would violate the hours of service restriction. Each time claimant told employer that claimant would be violating the restriction if he followed employer's direction. Each time, employer responded that either

claimant could drive the truck or claimant would lose his job. Claimant earnestly believes that exceeding the hours of service restriction violates federal law and jeopardizes claimant's commercial driver's license. On December 3, 2018, claimant resigned his employment. (Exhibit A)

REASONING AND CONCLUSIONS OF LAW:

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

Iowa Code § 96.5(1) provides: An individual shall be disqualified for benefits, if the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

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).

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "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). Under the reasonable belief standard, it is not necessary to prove the employer violated the law, only that it was reasonable for the employee to believe so. *O'Brien v. Employment Appeals Bd.*, 494 N.W.2d 660, 662 (Iowa 1993).

Iowa Admin. Code r. 871-24.26(3) 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:

- (3) The claimant left due to unlawful working conditions.

Claimant voluntarily quit his employment as evidenced by his resignation. Claimant's resignation is both evidence of his intention to sever the employment relationship and an overt act of carrying out that intention. Claimant had a reasonable belief that employer's request to exceed the hours of service restriction was a violation of federal law. Claimant expressed his concerns to employer to no avail. Claimant left his employment due to his reasonable belief that the working conditions were unlawful. Claimant has met his burden of proving good cause attributable to employer. Benefits are allowed provided claimant is otherwise eligible.

DECISION:

The December 20, 2018 (reference 01) unemployment insurance decision is reversed. Benefits are allowed provided claimant is otherwise eligible.

Adrienne C. Williamson
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Decision Dated and Mailed

acw/rvs