

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ROBERT E SCHRAGE
Claimant

AKA POWERWASHING SERVICES
Employer

APPEAL 20R-UI-14397-SC-T
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 04/05/20
Claimant: Appellant (1R)

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

STATEMENT OF THE CASE:

On July 20, 2020, Robert E. Schrage (claimant) filed an appeal from the July 17, 2020, reference 01, unemployment insurance decision that denied benefits based upon the determination he voluntarily quit employment with AKA Power washing Services (employer) for personal reasons. The parties were properly notified about the hearing held by telephone on September 22, 2020. The claimant participated in the hearing. The employer did not register for the hearing until after the record had closed and did not participate. The administrative law judge reversed the decision in appeal 20A-UI-08672-BH-T, and allowed the claimant to receive benefits.

The employer appealed the administrative law judge's decision to the Employment Appeal Board (EAB). The EAB remanded the appeal for a new hearing. The EAB noted they were not vacating the prior decision, but it would be vacated upon a new decision being issued.

New notices of hearing were mailed to both parties. The claimant did not respond to the hearing notice and did not participate. The employer participated through Aaron Anderson, President. No exhibits were admitted into the record. The administrative law judge took official notice of the administrative record.

ISSUE:

Did the claimant voluntarily quit employment with good cause attributable to the employer or did the employer discharge the claimant for job related misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed full-time as a Technician beginning on July 1, 2018, and his last day worked was April 3, 2020.

On April 5, the claimant asked the employer if he could have a two-week leave of absence. He did not have any symptoms of COVID-19, but he did not feel safe working. The employer

agreed and expected him to return on April 19. On April 19, the claimant did not return to work and Aaron Anderson, President, left a voice message asking him for an update on his status.

On April 21, the claimant notified the employer via text message that he had a fever and experiencing personal family issues. Anderson responded asking the claimant to keep in touch. Anderson also removed the claimant's access to the online business portal. This is just one way employees can learn about their schedule; however, it also contained confidential business information. As Anderson was unsure claimant's intentions, he did not want him to have access until he returned to work.

On May 8, Anderson again left a voice message for the claimant seeking a status update. The claimant did not respond to the voice message. The employer has had no further contact with the claimant. Anderson never told the claimant he was discharged and there was continuing work available to him.

As a result of the administrative law judge decision in appeal 20A-UI-08672-BH-T, the claimant was allowed benefits. He filed his claim for benefits effective April 5 and received \$3685 in regular unemployment insurance benefits and \$6,600 in Federal Pandemic Unemployment Compensation (FPUC) for the eleven weeks between April 5 and June 23.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was not discharged, but voluntarily quit employment was without good cause attributable to the employer. Benefits are denied.

Iowa Code section 96.5(1)f 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. But the individual shall not be disqualified if the department finds that:

f. The individual left the employing unit for not to exceed ten working days, or such additional time as may be allowed by the individual's employer, for compelling personal reasons, if so found by the department, and prior to such leaving had informed the individual's employer of such compelling personal reasons, and immediately after such compelling personal reasons ceased to exist the individual returned to the individual's employer and offered the individual's services and the individual's regular or comparable work was not available, provided the individual is otherwise eligible; except that during the time the individual is away from the individual's work because of the continuance of such compelling personal reasons, the individual shall not be eligible for benefits.

Iowa Admin. Code r. 871-24.25(20) 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:

(20) The claimant left for compelling personal reasons; however, the period of absence exceeded ten working days.

The 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). Generally, when an individual mistakenly believes they are discharged from employment, but was not told so by the employer, and they discontinue reporting for work, the separation is considered a quit without good cause attributable to the employer. Since the claimant did not follow up with Anderson and he failed to report to work, the claimant abandoned the job. Accordingly, benefits are denied.

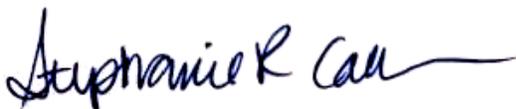
DECISION:

The July 17, 2020, reference 01, unemployment insurance decision is affirmed. The claimant voluntarily left the employment without good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Per the EAB's remand, this decision vacates the administrative law judge decision in appeal 20A-UI-08672-BH-T.

REMAND:

Whether the claimant has been overpaid unemployment insurance benefits and FPUC, as delineated in the findings of fact, is remanded to the Benefits Bureau for processing.



Stephanie R. Callahan
Administrative Law Judge

February 04, 2021
Decision Dated and Mailed