

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SOHAIB ORSOD
Claimant

THE UNIVERSITY OF IOWA
Employer

APPEAL 20A-UI-15636-SC-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 07/26/20
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

On November 10, 2020, Sohaib Orsod (claimant) filed an appeal from the November 6, 2020, reference 01, unemployment insurance decision that denied benefits based upon the determination he voluntarily quit employment with The University of Iowa (employer) to accept other employment, which was not obtained. The parties were properly notified about the hearing held by telephone on January 26, 2021. The claimant participated personally. The employer participated through Jessica Wade, HR Business Analyst. The Claimant's Exhibits A through C were admitted into the record.

ISSUE:

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

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 Supply Chain Technician beginning on December 18, 2018, and was separated from employment on July 26, 2020, when he quit. In 2020, the claimant began to experience back pain. On July 8, the claimant reported to the radiologist that he had worsening back pain over the prior several months. He was given an MRI that day, which was used as a baseline image for comparison at other medical appointments.

Around the same time, the claimant applied for a job with Unified Transportation Company (UTC) as a truck driver, a job that requires significant amounts of sitting. On July 10, the claimant was invited to participate in a pre-employment health screening. He was to report to UTC on August 3 for orientation. The claimant submitted his notice of resignation effective July 26 to the employer.

At some point prior to August 3, the claimant's doctor told him that he should not be sitting for extended periods of time. The claimant notified UTC that he could not begin work on August 3. UTC agreed he could start orientation at another time. The claimant sought further medical care, and he is currently engaged in physical therapy. He is still unable to sit for long periods of time due to his back pain.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was without good cause attributable to the employer. Benefits are denied.

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. But the individual shall not be disqualified if the department finds that:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

Iowa Admin. Code r. 871-24.25(3) 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:

(3) The claimant left to seek other employment but did not secure employment.

Iowa Admin. Code r. 871-24.28(5) provides:

Voluntary quit requalifications and previously adjudicated voluntary quit issues.

(5) The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment. The employment does not have to be covered employment and does not include self-employment.

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).

The claimant has not met the burden of proof that he voluntarily quit in good faith to accept other or better employment. The claimant was seeking treatment for lower back pain prior to applying for the truck-driving job with UTC. The claimant knew or should have known prior to leaving employment with the employer that he would be physically unable to do the job with UTC. Therefore, the claimant's decision to quit without having obtained other or better employment was not for a good cause reason attributable to the employer. Benefits are denied.

DECISION:

The November 6, 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.



Stephanie R. Callahan
Administrative Law Judge

February 11, 2021
Decision Dated and Mailed

src/scn