

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

68-0157 (9-06) - 3091078 - EI

DIONTAE D MCBRIDE

Claimant

APPEAL NO: 19A-UI-01123-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

HARBOR FREIGHT TOOLS USA INC

Employer

OC: 01/20/19

Claimant: Appellant (2)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the February 6, 2019, reference 01, decision that denied benefits. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on February 22, 2019. The claimant participated in the hearing. The employer did not respond to the hearing and did not participate in the hearing.

ISSUE:

The issue is whether the claimant voluntarily left his employment for 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 as a part-time cashier for Harbor Freight Tools USA from August 2, 2018 to December 31, 2018. He voluntarily quit his job after he received two written warnings.

On December 26, 2018, the claimant reported for work but the store was locked and he did not have a key. He knocked on the door and called the store phone number but the other employees were in the back and no one let him in until ten minutes after the start time of his shift. When the manager arrived and looked at the time cards he saw the claimant clocked in ten minutes late and issued him a written warning. He also received a written warning for a properly reported absence around the same time. The claimant told a supervisor he was going to voluntarily quit because he believed the warning regarding being tardy December 26, 2018, was unfair.

REASONING AND CONCLUSIONS OF LAW:

For the following reasons, the administrative law judge concludes the claimant voluntarily left his employment with good cause attributable to the employer.

Iowa Code § 96.5-1 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. 871-24.26(4) 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:

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

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See 871 IAC 24.26(4). The test is whether a reasonable person would have quit under the circumstances. See *Aalbers v. Iowa Department of Job Service*, 431 N.W.2d 330 (Iowa 1988) and *O'Brien v. Employment Appeal Bd.*, 494 N.W.2d 660 (1993). Aside from quits based on medical reasons, prior notification of the employer before a resignation for intolerable or detrimental working conditions is not required. See *Hy-Vee v. EAB*, 710 N.W.2d (Iowa 2005). The claimant received a written warning for tardiness even though he was at the store on time but could not enter because he did not have a key and no one inside responded to his repeated knocking or phone calls until ten minutes after the start time of his shift. That warning was inappropriate and the employer subsequently removed the warning but did not notify the claimant it did so. That warning, coupled with another written warning issued December 26, 2018, for a properly reported absence, resulted in the claimant voluntarily quitting his job. Under these circumstances, the administrative law judge concludes the working conditions were intolerable and detrimental to the claimant. Therefore, benefits are allowed.

DECISION:

The representative's decision dated February 6, 2019, reference 01, is reversed. The claimant voluntarily quit with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/scn