

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

AUGUSTUS SULLIVAN
Claimant

HY-VEE INC
Employer

APPEAL 18A-UI-05308-SC-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/15/18
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

Augustus Sullivan (claimant) filed an appeal from the May 4, 2018, reference 01, unemployment insurance decision that denied benefits based upon the determination he voluntarily quit employment with Hy-Vee, Inc. (employer) following a reprimand, which is not a good cause reason attributable to the employer. The parties were properly notified about the hearing. A telephone hearing was held on May 25, 2018. The claimant did not register himself for the hearing and did not participate. The claimant registered Kitchen Manager Ryan Kielman and Line Cook Brandon Green for the hearing, who participated on his behalf. The employer participated through Assistant Store Director of Operations Chad Bulman and Assistant Director of Perishables Don Kuhn and was represented by Barbara Buss of Corporate Cost Control. The Employer's Exhibit 1 was admitted into the record.

ISSUE:

Did the claimant voluntarily quit the 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 the Restaurant Assistant Manager beginning on March 28, 2014, and was separated from employment on April 15, 2018, when he quit.

Assistant Store Director of Operations Chad Bulman and Assistant Director of Perishables Don Kuhn were investigating allegations that the claimant was giving unauthorized discounts to co-workers. On the claimant's last day of work, they asked the claimant to the office to interview him about the allegations. The claimant refused to sit down or answer any questions. The claimant told them that he refused to talk to them and walked out of the office. The claimant indicated he was leaving the store and Bulman asked the claimant for his keys. The claimant went down to the restaurant and told others that his employment had ended. The employer did not tell the claimant that he had been discharged.

REASONING AND CONCLUSIONS OF LAW:

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

Iowa Code section 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. 871-24.25 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:

...

(27) The claimant left rather than perform the assigned work as instructed.

(28) The claimant left after being reprimanded.

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's decision to quit rather than participate in the investigation was not for a good cause reason attributable to the employer. Benefits are denied.

DECISION:

The May 4, 2018, 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

Decision Dated and Mailed

src/scn