

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

DAVID BARNES

Claimant

OPERATION NEW VIEW

Employer

APPEAL NO. 18A-UI-03543-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 02/25/18

Claimant: Appellant (2R)

Iowa Code § 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated March 13, 2018, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on April 11, 2018. Claimant participated. Employer failed to respond to the hearing notice and did not participate.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: As claimant was the only participant in the hearing, all findings of fact are derived from claimant's testimony. Claimant last worked for employer on December 18, 2017. On January 11, 2018, claimant submitted a resignation letter to employer. Employer accepted claimant's resignation and prepared a separation agreement that paid claimant.

Claimant worked as executive director for employer for nearly three years. Soon after claimant's hire, it was made clear to claimant that his hopes of outreach to minority citizens was being met with trepidation by claimant's co-workers and department heads. Claimant was told soon after his hire that African Americans in Dubuque didn't want to work. Claimant, as an African American did not agree with these sentiments and sought to change and improve minorities' situations.

In December of 2017, claimant was informed that there had been a harassment filing against him. Claimant met with the human resources officer and discussed the issue, noting that the accuser stated claimant didn't physically or verbally do inappropriate acts towards claimant. When claimant decided not to move this issue to the board of directors, the human resources officer grabbed another supervisor and barged into claimant's office. Claimant left the room, and informed the two heads of the board of directors of the situation.

Claimant then went to speak with the finance director who informed claimant that, "people don't want you to succeed because you are black." Claimant agreed later that day to go on a paid leave while this issue of claimant's alleged harassment was investigated.

Employer didn't tell claimant of any outcome of the investigation for nearly a month period claimant was off from work. Claimant offered his resignation, and it was accepted as claimant did not feel comfortable with the racism he felt was pervasive within employer's company. Claimant's resignation letter did not refer to this racism in any way.

Claimant stated the wording of the separation agreement which may or may not refer to a period of time for which claimant's payout was to be applied.

REASONING AND CONCLUSIONS OF LAW:

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.

The administrative law judge holds that the evidence has established that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because he was uncomfortable that even after working as executive director for employer for nearly three years that there appeared to be systemic racism that was held against him.

Ordinarily "good cause" is derived from the facts of each case keeping in mind the public policy stated in Iowa Code Section 96.2. *O'Brien v. EAB* 494 N.W.2d 660, 662 (Iowa 1993) (citing *Wiese v. IA Dept. of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986)). "The term encompasses real circumstances, adequate excuses that will bear the test of reason, just grounds for the action, and always the test of good faith." *Wiese v. IA Dept. of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986). "Common sense and prudence must be exercised in evaluating all of the circumstances that led to an employee's quit in order to attribute the cause for the termination." *Id.* In this matter, claimant has shown multiple examples of racism directed towards claimant. This does constitute good cause to quit.

The administrative law judge is remanding this matter to the factfinder for determination as to claimant's payout at the end of his employment and whether this should delay claimant's receipt of unemployment benefits.

DECISION:

The decision of the representative dated March 13, 2018, reference 01, is reversed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible. The matter is Remanded to the fact finder to determine whether claimant's separation payout should be applied to the first week of unemployment or spread to cover a larger period.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed

bab/scn