

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LUKE C COSGROVE

Claimant

APPEAL 20A-UI-13298-S2-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

MCCOY NATIONAL LEASE INC

Employer

OC: 04/26/20

Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quit

Iowa Admin. Code r. 871-24.26(4) – Intolerable working conditions

STATEMENT OF THE CASE:

The claimant filed an appeal from the October 15, 2020, (reference 01) unemployment insurance decision that denied benefits based upon his voluntary quit. The parties were properly notified about the hearing. A telephone hearing was held on December 17, 2020. Claimant Luke C. Cosgrove participated and testified. Employer did not participate.

ISSUE:

Was the separation a layoff, discharge for misconduct or voluntary quit without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as a staff accountant from May 9, 2019, and was separated from employment on April 10, 2020, when he quit.

In March 2020, employer notified claimant that his division was sold and his position would end on April 30, 2020. That same month, the United States declared a public health emergency based on the COVID-19 pandemic. Due to the pandemic, claimant's end date was extended to June 30, 2020.

Claimant decided to remove his son from daycare due to his son's compromised immune system. Claimant's wife had a permanent full-time job so she was unable to stay home and care for their son. On March 25, 2020, claimant asked employer if he could work remotely. On April 6, 2020, employer denied his request stating claimant was needed onsite for questions, coaching, and issues with the upcoming divestiture.

On April 10, 2020, claimant submitted his written resignation effective immediately so he could stay home to care for his son.

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.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits:

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.

In this case claimant tendered his verbal resignation on April 10, 2020. As such, this case must be analyzed as a voluntary quit case and not a discharge case.

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). In this case, claimant voluntarily quit because he did not have childcare for his infant child. This was due to his son's removal from daycare resulting from his compromised immune system.

Iowa Admin. Code r. 871-24.25(17) provides:

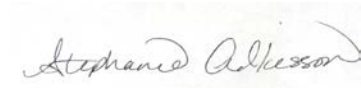
Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code § 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 § 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:

- (17) The claimant left because of lack of child care.

While claimant's leaving the employment may have been based upon good personal reasons, it was not for a good-cause reason attributable to the employer according to Iowa law. Benefits must be denied.

DECISION:

The October 15, 2020, (reference 01) unemployment insurance decision is affirmed. The claimant voluntarily left his 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 Adkisson
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

December 29, 2020
Decision Dated and Mailed

sa/scn

Note to Claimant: This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits due to disqualifying separations, but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.