

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**MACKENZIE R ROCHHOLZ**  
Claimant

**A-LINE IRON & METALS INC**  
Employer

**APPEAL 17A-UI-08803-LJ-T**  
**ADMINISTRATIVE LAW JUDGE**  
**DECISION**

**OC: 07/23/17**  
**Claimant: Appellant (1)**

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Iowa Code § 96.5(1) – Voluntary Quitting  
Iowa Code § 96.5(2)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the August 16, 2017 (reference 01) unemployment insurance decision that found claimant was eligible for unemployment from the date of his termination until the date of his resignation, and he was not eligible for benefits following the date of his resignation. The parties were properly notified of the hearing. A telephone hearing was held on September 28, 2017. The claimant, Mackenzie, participated. The employer, A-Line Iron and Metals, Inc., participated through Jeff Holmes, Vice President; and Julia Stone, President and Owner. Claimant submitted exhibits for the hearing. These documents were obtained from the employer without the employer's consent, and they were not admitted into the record.

**ISSUE:**

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

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time, most recently as a facility manager, from September 6, 2013, until July 21, 2017, when he was discharged. On July 20, claimant submitted his resignation to Julia Stone via email. He provided a two-week notice in this resignation letter. After receiving this email, Stone contacted claimant to inform him that his services were no longer needed by the employer. The employer has an informal policy of not allowing employees to work two-week notice periods.

Claimant quit his employment for two reasons. First, he feels the employer was forcing him to engage in illegal activity by hauling an overweight bailer without a proper permit. The employer maintains it was claimant's responsibility to get the permit and carry it with him when transporting the bailer. Second, claimant quit because he believed he was going to be demoted or discharged. He heard rumors from individuals outside the company that another person was hired for his position. When he spoke to Stone about this, she denied it.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment without good cause attributable to the employer, but was discharged for no disqualifying reason prior to the intended resignation date.

It is the duty of the administrative law judge as the trier of fact in this case, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *Id.* In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other believable evidence; whether a witness has made inconsistent statements; the witness's conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *Id.* After assessing the credibility of the witnesses who testified during the hearing, considering the applicable factors listed above, and using her own common sense and experience, the administrative law judge finds the employer's testimony more credible than claimant's testimony.

Iowa Code §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.

Iowa Admin. Code r. 871-24.25 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: ...

(21) The claimant left because of dissatisfaction with the work environment.

...

(33) The claimant left because such claimant felt that the job performance was not to the satisfaction of the employer; provided, the employer had not requested the claimant to leave and continued work was available.

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). Here, the evidence indicates it was claimant's responsibility to obtain the permit for the bailer. If he moved the bailer without the required permit, it was his own fault. The average

person in claimant's situation would not have felt similarly compelled to end his employment under these circumstances. A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980). Claimant submitted his resignation and gave a two-week notice. Claimant's decision to end his employment was without good cause attributable to the employer.

This case is unique in that the employer separated claimant from employment after he announced his resignation but before his anticipated last day of employment. Iowa Admin. Code r. 871-24.25(38) 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:

(38) Where the claimant gave the employer an advance notice of resignation which caused the employer to discharge the claimant prior to the proposed date of resignation, no disqualification shall be imposed from the last day of work until the proposed date of resignation; however, benefits will be denied effective the proposed date of resignation.

Claimant's decision to quit was not a good cause reason attributable to the employer. Nonetheless, the employer's decision to discharge claimant was solely in response to a resignation notice and not for any misconduct. Since the employer terminated the employment relationship in advance of the resignation notice effective date, the claimant is entitled to benefits from the date of termination until the effective date of the proposed resignation.

**DECISION:**

The August 16, 2017 (reference 01) decision is affirmed. The claimant voluntarily left the employment without good cause attributable to the employer, but was discharged prior to the resignation effective date. Benefits are allowed until the week ending July 22, 2017. Thereafter, benefits are withheld until such time as the claimant works in and has been paid wages equal to ten times his weekly benefit amount.

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Elizabeth A. Johnson  
Administrative Law Judge

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Decision Dated and Mailed

lj/scn