

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LORI D MONTGOMERY
Claimant

DEERE & COMPANY
Employer

APPEAL 21A-UI-07549-AW-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 05/10/20
Claimant: Appellant (2)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

Claimant filed an appeal from the March 8, 2021 (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified of the hearing. A telephone hearing was held on May 24, 2021, at 2:00 p.m. Claimant participated. Employer participated through Ed Johnson, Labor Relations. No exhibits were admitted.

ISSUES:

Whether claimant's separation was a voluntary quit without 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 as a full-time Production Support Worker from October 5, 2020 until her employment with Deere & Company ended on January 21, 2021. Claimant's direct supervisor was Jesse Riley, Production Supervisor.

On January 4, 2021, claimant was transferred to a new department where her job duties included hoisting parts onto an overhead conveyor belt. Claimant received little training before being left to perform the job on her own. On three occasions, the part fell or slid on the hoist. If the parts had fallen on claimant, she could have been seriously injured. This caused claimant anxiety.

On January 11, 2021, claimant informed Riley of her concerns and requested additional training. Riley relayed the information to employer's safety team who observed claimant's use of the hoist. The safety team indicated claimant appeared anxious but that the hoist was working properly.

On January 19, 2021, claimant informed Riley that she was still having issues operating the hoist and remembering the hook points. Riley consulted with Ed Johnson, Labor Relations, and determined that employer would provide claimant with two weeks of additional training. Claimant agreed to "give it a couple more weeks."

On January 21, 2021, claimant inquired about changing departments due to her safety concerns and anxiety using the hoist. Employer informed claimant that changing departments was not an option under employer's labor agreement and that claimant must either return to work or quit. Claimant resigned January 21, 2021.

Employer had continuing work available for claimant if she had not quit. Claimant's job was not in jeopardy.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant voluntarily quit with good cause attributable to employer. Benefits are allowed provided claimant is otherwise eligible.

Iowa Code § 96.5(1) provides: An individual shall be disqualified for benefits, if the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

A voluntary quitting means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer and requires an intention to terminate the employment. *Wills v. Emp't Appeal Bd.*, 447 N.W. 2d 137, 138 (Iowa 1989). 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); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992).

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 standard of what a reasonable person would have believed under the circumstances is applied in determining whether a claimant left work voluntarily with good cause attributable to the employer. *O'Brien v. Employment Appeal Bd.*, 494 N.W.2d 660 (Iowa 1993).

Iowa Admin. Code r. 871-24.26(2), (4) provide:

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:

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

"Good cause attributable to the employer" does not require fault, negligence, wrongdoing or bad faith by the employer. *Dehmel v. Employment Appeal Bd.*, 433 N.W.2d 700, 702 (Iowa 1988)("[G]ood cause attributable to the employer can exist even though the employer is free from all negligence or wrongdoing in connection therewith"); *Shontz v. Iowa Employment Sec. Commission*, 248 N.W.2d 88, 91 (Iowa 1976)(benefits payable even though employer "free from fault"); *Raffety v. Iowa Employment Security Commission*, 76 N.W.2d 787, 788 (Iowa 1956)("The good cause attributable to the employer need not be based upon a fault or wrong of

such employer.”). Good cause may be attributable to “the employment itself” rather than the employer personally and still satisfy the requirements of the Act. *Raffety*, 76 N.W.2d at 788.

Claimant voluntarily quit her employment due to concerns about her safety and lack of training. Within a week of hoisting parts onto an overhead conveyor belt, three parts fell or slid from the hoist presenting a safety hazard to claimant. Employer inspected the hoist and found no defects. It stands to reason that the issue was claimant’s operation of the hoist. Claimant requested additional training. Employer did not immediately provide claimant with that training. An average person would find claimant’s working conditions unsafe or intolerable. Claimant has met her burden of proving good cause attributable to employer. Benefits are allowed provided claimant is otherwise eligible.

DECISION:

The March 8, 2021 (reference 01) unemployment insurance decision is reversed. Claimant quit for good cause attributable to employer. Benefits are allowed provided claimant is otherwise eligible.



Adrienne C. Williamson
Administrative Law Judge
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June 11, 2021
Decision Dated and Mailed

acw/mh