

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JESSE W RINAKE
Claimant

BRINKER INT
Employer

APPEAL 19A-UI-09265-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 10/20/19
Claimant: Appellant (1)**

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

STATEMENT OF THE CASE:

On November 23, 2019, Jesse Rinaker (claimant) filed a timely appeal from the November 20, 2019 (reference 03) unemployment insurance decision that found claimant was not eligible for benefits.

A telephone hearing was held on December 18, 2019. The parties were properly notified of the hearing. The claimant participated personally. Brinker Int. (employer) participated by General Manager Darryl Cofell.

ISSUE(S):

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

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant worked for employer as a cook/prep cook. He worked anywhere between 20 and 35 hours a week. Claimant's first day of employment was May 30, 2019. Claimant's immediate supervisor was Kitchen Supervisor Brandy Wurth. The last day claimant worked on the job was September 15, 2019. Claimant quit on that date.

Claimant had worked as a cook for previous employers and was hired by employer to work as a cook. However, several months into employment, he asked to begin working as a prep cook. Claimant requested this to get more hours and because claimant found it less stressful than working as a cook. Employer accommodated this request and claimant began working several days a week as a prep cook and other days as a cook. It was understood that claimant would cook as needed and eventually return to cooking all the time.

On September 15, 2019, claimant was working as a cook. This day was particularly stressful, and claimant felt overwhelmed. Wurth was critical of his work, asking why certain things were done or not done in certain ways. This frustrated claimant and he walked out of the kitchen and left. He told Cofell on his way out that he was leaving and quitting. Cofell asked claimant why he was

quitting but claimant did not respond. Claimant did not return to work or contact employer after that. His job was not in jeopardy when he quit.

Claimant found Wurth to be overly critical. However, there is no evidence that Wurth was physically threatening or vulgar toward him.

REASONING AND CONCLUSIONS OF LAW:

For the reasons set forth below, the November 20, 2019 (reference 03) unemployment insurance decision that found claimant was not eligible for benefits is AFFIRMED.

Iowa Code section 96.5(1)a 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:

- (21) The claimant left because of dissatisfaction with the work environment.
- (22) The claimant left because of a personality conflict with the supervisor.
- (27) The claimant left rather than perform the assigned work as instructed.
- (28) The claimant left after being reprimanded.

Iowa Admin. Code r. 871-24.26 provides in relevant part:

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:

- (4) The claimant left due to intolerable or detrimental working conditions.
- (23) The claimant left work because the type of work was misrepresented to such claimant at the time of acceptance of the work assignment.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). The employer has the burden of proving that a claimant's departure from employment was voluntary. *Irving v. Emp't Appeal Bd.*, 883 N.W.2d 179 (Iowa 2016). "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". *Id.* (citing *Cook v. Iowa Dept. of Job Service*, 299 N.W.2d 698, 701 (Iowa 1980)).

“Good cause” for leaving employment must be that which is reasonable to the average person, not to the overly sensitive individual or the claimant in particular. *Uniweld Products v. Industrial Relations Commission*, 277 S.2d 827 (Florida App. 1973). While a notice of intent to quit is not required to obtain unemployment benefits where the claimant quits due to intolerable or detrimental working conditions, the case for good cause is stronger where the employee complains, asks for correction or accommodation, and employer fails to respond. *Hy-Vee Inc. v. EAB*, 710 N.W.2d 1 (Iowa 2005).

Employer has carried its burden of proving claimant’s departure from employment was voluntary. However, claimant has not carried his burden of proving the voluntary leaving was for good cause attributable to employer.

While the administrative law judge understands claimant’s working environment was stressful, he had worked previously as a cook and was hired to work as a cook in this instance as well. The type of work was not misrepresented to him at the time of hire. If anything, employer took steps to try to accommodate claimant’s subsequent for a less stressful position after he was hired. Therefore, the administrative law judge finds the contract of hire was not changed, the type of work was not misrepresented to claimant, and the working conditions cannot be accurately described as intolerable or detrimental.

Claimant’s quitting is more accurately described as being due to dissatisfaction with the work environment and the work assigned; due to a personality conflict with a supervisor; and due to being reprimanded or criticized. These reasons for quitting are presumptively without good cause attributable to employer, and the administrative law judge finds those reasons did not constitute good cause in this instance either.

DECISION:

The November 20, 2019 (reference 03) unemployment insurance decision that found claimant was not eligible for benefits is **AFFIRMED**. Claimant is disqualified from receiving benefits until he has earned wages for insured work equal to ten times the weekly unemployment benefit amount.

Andrew B. Duffelmeyer
Administrative Law Judge
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Decision Dated and Mailed

abd/scn