

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JEFF BAPPE
Claimant

HOLUB GREENHOUSES INC.
Employer

APPEAL 20A-UI-07447-ED-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/5/20
Claimant: Appellant (2)

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

STATEMENT OF THE CASE:

The claimant filed an appeal from the June 26, 2020 (reference 02) unemployment insurance decision that denied benefits. The parties were properly notified of the hearing. A telephone hearing was held on August 7, 2020 at 10:00 AM. The claimant, Jeff Bappe, participated personally and was represented by attorney, Stuart Higgins. The employer, Holub Greenhouses Inc participated through Brad Vanlengenhoven. No exhibits were admitted.

ISSUES:

Did claimant voluntarily quit the employment with good cause attributable to employer?
Was the claimant discharged for disqualifying job-related misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was seasonally employed as a retail associate from April 2016 until March 3, 2020 when he voluntarily quit. Claimant's direct supervisor was Brad Vanlengenhoven.

Claimant's position required him to interact with customers face-to-face to assist them in selecting and purchasing items. His job also required him to run the cash register and clean the restrooms at the beginning and the ending of each shift. When Covid-19 developed, the company put some safety precautions in place such as using disinfectant wipes for surfaces and cart handles. However, masks were not required for customers or workers. Social distancing was not enacted. The number of people entering the enclosed greenhouse was not limited.

Claimant is a caregiver for his mother who is 70 years old.

Claimant was concerned about contracting Covid-19 and infecting his mother and his children. Holub Greenhouses did not provide a barrier between employees and customers.

On March 3, 2020, claimant informed Holub Greenhouse that he needed to quit because he is a caregiver for his mother and the work environment was too dangerous given Covid-19.

Claimant did not have any disciplinary actions.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5(1) provides an individual shall be disqualified for benefits, regardless of the source of the individual's wage credits: . . . IF the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department." The Iowa Supreme Court has held a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer." *Wills v. Emp't Appeal Bd.*, 447 N.W.2d 137, 138 (Iowa 1989). A voluntary quit requires an "intention to terminate the employment relationship accompanied by an overt act carrying out the intent. *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438, 440 (Iowa Ct. App. 1992). "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).

871 Iowa Administrative Code 24.25(21) 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 "l" and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer. . . .

24.25(21) The claimant left because of dissatisfaction with the work environment.

871 Iowa Administrative Code 24.26(4) provides:

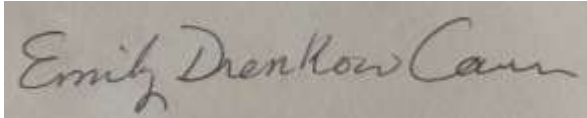
Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

24.26(4) The claimant left due to intolerable or detrimental working conditions.

Claimant told his employer he is a caregiver for his mother who is 17 and that he was concerned about contracting Covid-19 at work and infecting her and his kids. Employer did not provide claimant with a mask, face shield, or barrier from customers and required him to work directly with customers at a cash register with no barrier. I find claimant's working conditions were intolerable and detrimental, and that a reasonable person would be compelled to quit given the conditions. After considering the evidence in this case, I find claimant quit his job with good cause attributable to the employer. Benefits are allowed.

DECISION:

The June 26, 2020 (reference 02) unemployment insurance decision is reversed in favor of the claimant/appellant. Benefits are allowed, provided the claimant is otherwise eligible.

A rectangular box containing a handwritten signature in dark ink. The signature is written in a cursive style and reads "Emily Drenkow Carr".

Emily Drenkow Carr
Administrative Law Judge

August 20, 2020
Decision Dated and Mailed

ed/sam