

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

MICHAEL A MAYER
Claimant

PLUMB SUPPLY COMPANY II LLC
Employer

APPEAL 17A-UI-06739-JCT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 06/04/17
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the June 28, 2017, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on July 25, 2017. The claimant participated personally. Monty Montgomery, assistant manager and current employee, participated on behalf of the claimant. The employer participated through Todd Johnson, operations manager. Bill Hughett, outside sales manager, also testified for the employer. Claimant Exhibit A was admitted into evidence. The administrative law judge took official notice of the administrative records including the fact-finding documents. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

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

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed full-time as an HV manager (heating, ventilation and air conditioning) and was separated from employment on June 2, 2017, when he quit the employment. Continuing work was available.

On June 1, 2017, the employer had discussed a new product launch, for which the claimant was designing promotional fliers. In the claimant's job capacity, he usually had the discretion to adjust sales prices, but employees were informed that his product should be priced a certain way and adjustments to the price should be with authorization only. The claimant received a call from supervisor Ryan Sommers on June 2, 2017, in response to fliers designed by the claimant, in which he appeared to have lowered the price. The claimant believed he had been "thrown under the bus" by Mr. Johnson to Mr. Sommers and became upset. Mr. Johnson called the claimant and advised him they would speak later that day, after Mr. Johnson's scheduled doctor's appointment. The claimant was also concerned that he could be in trouble based on a

February comment that Mr. Johnson had made about consequences of the claimant making Mr. Sommers mad.

The claimant returned to the office and Mr. Johnson was absent due to the doctor's appointment. He left early without notifying Mr. Johnson, but before doing so, he informed Mr. Montgomery, that he was "done" and left his keys and company issued credit card. Mr. Montgomery was overheard by Mr. Hughett advising against quitting, suggesting he cool down first and return on Monday. The claimant repeated he was "done." The employer interpreted the claimant's leaving early on June 2, 2017, while being upset and returning his company issued credit card and keys as quitting. The claimant stated he had returned his keys so that if anything happened over the weekend, he would not be responsible for it, and because he had been having issues with the credit card. No evidence was presented that the claimant was requested by the employer to return either item.

On Monday, June 5, 2017, the claimant attempted to return to work but was informed the employer had accepted his resignation and separation ensued.

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 § 96.5-1 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(27) 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:

(27) The claimant left rather than perform the assigned work as instructed.

Iowa Admin. Code r. 871-24.25(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 "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.

Iowa Admin. Code r. 871-24.25(22) 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:

(22) The claimant left because of a personality conflict with the supervisor.

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. See 871 IAC 24.25. The 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. Industrial Relations Commission*, 277 So.2d 827 (Fla. App. 1973).

"A voluntary quitting of employment requires that an employee exercise a voluntary choice between remaining employed or terminating the employment relationship. *Wills v. Emp't Appeal Bd.*, 447 N.W.2d 137, 138 (Iowa 1989); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438, 440 (Iowa Ct. App. 1992). 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).

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 appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *Id.* Assessing the credibility of the witnesses and reliability of the evidence in conjunction with the applicable burden of proof, as shown in the factual conclusions reached in the above-noted findings of fact, the administrative law judge concludes the claimant demonstrated the requisite intent and overt action to quit the employment by voluntarily relinquishing his keys and company issued credit card, and telling Mr. Montgomery he was "done" while upset.

The evidence presented supports that the claimant became upset while confronted by management about changing prices on a flier without authorization. The employer stated it wanted to speak to him but instead the claimant quit working mid-shift, told Mr. Montgomery he was "done" and left his work issued property. The employer reasonably interpreted his actions to mean he wished to sever employment and was under no obligation to offer his job back after he had abandoned his job.

Based on the evidence presented, the administrative law judge concludes the claimant's decision to quit was because he did not agree with the supervisor/management about details of his upcoming marketing flier. While the 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 June 28, 2017, (reference 01) unemployment insurance decision is affirmed. The claimant voluntarily left the 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.

Jennifer L. Beckman
Administrative Law Judge

Decision Dated and Mailed

jlb/scn