

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

DENNIS W COPP
Claimant

KERRY INC
Employer

APPEAL NO. 14A-UI-05811-GT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 09/15/13
Claimant: Appellant (1)

Iowa Code § 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated June 5, 2014, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on June 27, 2014. Claimant participated. Employer participated by Jamie Stevens, Production Manager. Claimant's Exhibit A was admitted into evidence.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on May 14, 2014. Claimant submitted a written resignation on April 30, 2014 with an effective date of May 14, 2014. Claimant had received a reprimand that day and was having difficulties taking care of his mother who was ill. Later, after consulting with his union representative claimant decided to withdraw his resignation. He provided a written notice that he wished to rescind his resignation on May 7, 2014 (Claimant's Exhibit A). Mr. Stevens told claimant that he did not have a problem with claimant withdrawing his resignation, but the final decision would have to come from human resources. Mr. Stevens told claimant that he would need to check with human resources to receive a final confirmation. Claimant assumed his resignation was rescinded and continued working. Claimant was notified that his resignation had been accepted on May 14, 2014. Employer did not notify claimant prior to that date that they had accepted his resignation because employer's business is a food production facility and they were concerned about employee retaliation and food safety issues.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because he was having problems caring for a sick relative, and he was unhappy with a reprimand that he had received.

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(23), (28) 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 § 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 § 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:

(23) The claimant left voluntarily due to family responsibilities or serious family needs.

(28) The claimant left after being reprimanded.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). 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 did show his intention to terminate employment accompanied with an overt act when he submitted his written resignation. Once the claimant provided a written intent to rescind his resignation employer then had the right to either accept or reject the resignation. Employer chose to accept the resignation.

While claimant's decision to leave the employment may have been based upon good personal reasons, it was not for a good cause reason attributable to the employer. Benefits must be denied.

DECISION:

The decision of the representative dated June 5, 2014, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

Duane L. Golden
Administrative Law Judge

Decision Dated and Mailed

dlg/can