

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

STEVE C AGNE
Claimant

APPEAL NO. 11A-UI-07933-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ALLSTEEL INC
c/o **EMPLOYERS EDGE LLC**
Employer

OC: 05/15/11
Claimant: Respondent (2-R)

Section 96.5-1 – Voluntary Quit
Section 96.3-7 – Benefit Overpayment

STATEMENT OF THE CASE:

Employer filed a timely appeal from a representative's decision dated June 6, 2011, reference 01, which held claimant eligible to receive unemployment insurance benefits. After due notice, a telephone hearing was held on July 13, 2011. Claimant participated personally. The employer participated by Ms. Denice Norman, Hearing Representative, and witnesses: Ms. Kourtney Fox, Human Resource Generalist, and Mr. Mark Winters, Procurement Manager.

ISSUE:

The issue is whether the claimant left employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having considered all of the evidence in the record, the administrative law judge finds: Steve Agne was employed by Allsteel, Inc. from March 2007 until April 29, 2011 when he voluntarily left employment. Mr. Agne worked as a full-time procurement analyst and was paid by salary. His immediate supervisor was the procurement manager, Mark Winters.

Mr. Agne left his employment with Allsteel, Inc. after providing two and one-half weeks' notice indicating that he was leaving employment to take "early retirement" and because of the stress associated with job requirements.

On April 10, 2011, Mr. Agne had been given the results from his 2010 performance evaluation. The employer had determined that Mr. Agne should be placed on a performance improvement plan to improve communication response time with other employees on parts issues and because the employer felt that the claimant needed to improve his knowledge of computer systems used for the procurement of parts. Mr. Agne did not agree with the evaluation and felt that the performance improvement plan was unjustified. Claimant had previously been placed on a performance improvement plan approximately one and one-half years previously and felt that his manager had not met sufficiently with him about the issues on that previous performance improvement plan.

Mr. Agne was in general dissatisfied with numerous aspects of the manner in which the company procured parts. Claimant felt that he was not meeting his personal expectations with respect to providing adequate service to company employees or to vendors. Mr. Agne was also dissatisfied because attendance had been an issue in the past when he had taken time off work because his wife was seriously ill. Claimant was also dissatisfied because the nature of his work required him to work long hours when other employees were at times not required to do so. Mr. Agne felt that the job requirements were causing him undue stress. The claimant, however, had not been advised to leave employment by a medical practitioner. During the course of his employment Mr. Agne had met with his immediate supervisor on a number of occasions about job issues and the claimant had gone to the company's human resource department stating some job dissatisfaction when applying for "early retirement." Work continued to be available to the claimant at the time of his leaving.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant voluntarily left employment without good cause attributable to the employer.

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.

871 IAC 24.25(22), (28), (33) 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:

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

(28) The claimant left after being reprimanded.

(33) The claimant left because such claimant felt that the job performance was not to the satisfaction of the employer; provided, the employer had not requested the claimant to leave and continued work was available.

871 IAC 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:

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

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). An individual who voluntarily leaves their employment must first give notice to the employer the reasons for quitting in order to give the employer an opportunity to address or resolve the complaint. Cobb v. Employment Appeal Board, 506 N.W.2d 445 (Iowa 1993). Employees are not required to give notice of intention to quit due to intolerable, detrimental or unsafe working conditions if the employer had or should have had reasonable knowledge of the condition. Hy-Vee v. Employment Appeal Board, 710 N.W.2d 1 (Iowa 2000).

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer under the provisions of 871 IAC 24.26(4). The test as to whether an individual has good cause attributable to the employer for leaving employment is not a subjective test as to whether the employee themselves feel they have good cause but an objective test as to whether a reasonable person would have quit under similar circumstances. See Aalbers v. Iowa Department of Job Service, 431 N.W.2d 330 (Iowa 1988). See also O'Brien v. Employment Appeal Board, 494 N.W.2d 660 (Iowa 1993).

The administrative law judge concludes based upon the evidence in the record that Mr. Agne left employment based upon ongoing dissatisfaction and an inability to work with his immediate supervisor and because the claimant felt that he was not working effectively due to policies and production issues that were beyond his control. The administrative law judge concludes that the precipitating factor that caused Mr. Agne to leave employment was when he was informed that he would be placed on a performance improvement plan based upon the evaluation of his work for the preceding year. The claimant did not agree with the evaluation and did not agree with the plan. The administrative law judge concludes that the performance improvement plan was reasonable and work related. The claimant tendered his resignation although he had not received the performance improvement plan as of that time.

The administrative law judge concludes the claimant's leaving was not due to intolerable or detrimental working conditions but due to the claimant's general dissatisfaction with the nature of the work, his supervision and a decision by management to issue him a plan to improve his work performance.

While Mr. Agne's reasons for leaving were undoubtedly good from his personal viewpoint, they were not good cause reasons attributable to the employer. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount and meets all other eligibility requirements of Iowa law.

DECISION:

The representative's decision dated June 6, 2011, reference 01, is reversed. The claimant quit employment without good cause attributable to the employer. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, and meets all other eligibility requirements of Iowa law. The issue of whether the claimant must repay unemployment insurance benefits is remanded to the UIS Division for determination.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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