

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SERGIO CORONA
Claimant

NPC INTERNATIONAL INC
Employer

APPEAL 21A-UI-00452-AD-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/29/20
Claimant: Appellant (2)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

On November 16, 2020, Sergio Corona (claimant/appellant) filed a timely appeal from the Iowa Workforce Development decision dated November 4, 2020 (reference 03) that denied benefits based on a finding claimant voluntarily quit work on March 5, 2020 without a showing of good cause attributable to employer.

A telephone hearing was held on February 8, 2021. The parties were properly notified of the hearing. The claimant participated personally. NPC International Inc. (employer/respondent) did not register a number for the hearing and did not participate.

Official notice was taken of the administrative record.

ISSUE(S):

- I. Was the separation from employment 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 began working for employer in the first quarter of 2019. Around the end of 2019 claimant also began working for Deli Management, Inc. Claimant was offered full-time hours at Deli Management, Inc. around the beginning of 2020. Claimant resigned from employer around that time to take full-time employment at Deli Management, Inc. Claimant continued to work at Deli Management, Inc. after that resigning from employer.

REASONING AND CONCLUSIONS OF LAW:

For the reasons set forth below, the decision dated November 4, 2020 (reference 03) that denied benefits based on a finding claimant voluntarily quit work on March 5, 2020 without a showing of good cause attributable to employer is REVERSED. Claimant's separation from employer was not disqualifying and benefits are therefore allowed, provided he is otherwise eligible for benefits. Employer's account shall not be charged.

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. But the individual shall not be disqualified if the department finds that:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

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).

Iowa unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code §§ 96.5(1) and 96.5(2)a. 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).

Claimant left employer in good faith for the sole purpose of accepting other or better employment, which he did accept and perform services in. As such, claimant's separation from employer was not disqualifying. Furthermore, employer shall not be charged for benefits paid.

DECISION:

The decision dated November 4, 2020 (reference 03) that denied benefits based on a finding claimant voluntarily quit work on March 5, 2020 without a showing of good cause attributable to employer is REVERSED. Claimant's separation from employer was not disqualifying and benefits are therefore allowed, provided he is otherwise eligible for benefits. Employer's account shall not be charged.



Andrew B. Duffelmeyer
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February 19, 2021
Decision Dated and Mailed

abd/ol