

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JASON SNOW
Claimant

CITY OF MORAVIA
Employer

APPEAL 21A-UI-02009-S2-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 10/11/20
Claimant: Respondent (1)

Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.5(1) – Voluntary Quit
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Iowa Admin. Code r. 871-24.10 – Employer/Representative Participation Fact-finding Interview

STATEMENT OF THE CASE:

The employer filed an appeal from the December 17, 2020, (reference 01) unemployment insurance decision that denied benefits based upon his voluntary quit. The parties were properly notified about the hearing. A telephone hearing was held on March 8, 2021. Claimant Jason Snow participated and testified. Employer City of Moravia participated through mayor Roy Miller, council member John Baty, and council member Gary Erhle. The administrative law judge took official notice of the administrative record.

ISSUES:

Did claimant voluntarily quit the employment with good cause attributable to employer?
Has the claimant been overpaid unemployment insurance benefits, and if so, can the repayment of those benefits to the agency be waived?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as an administrative supervisor from August 10, 2015. Claimant submitted his written resignation on September 15, 2020, and his last day working for employer was September 29, 2020.

Claimant had issues with a city council member, George Robinson. Claimant was the fire chief from October 2018 through January 2020. While claimant was the fire chief, Robinson told him to resign so that Robinson could return to the fire chief position he previously held. Claimant told him he would have to resubmit his application and this angered Robinson. Robinson was elected to the city council and began interfering in claimant's work. Each city council member is assigned to various departments. Robinson told claimant all of his work had to go through Robinson, despite the fact that he was not in charge of every department. Robinson constantly micromanaged claimant's work by requiring claimant to run all decisions past him, making it difficult for claimant to complete his tasks in a timely manner.

The final straw for claimant occurred in September 2020 when Robinson order claimant to place rock in front of his house. Claimant believed it was unethical to perform work at a city council member's private residence on work time, so he declined to do so. Claimant decided he could no longer remain in his position due to Robinson's attempts to control is work so he resigned.

Claimant brought his issues to his supervisor, mayor Roy Miller, on several occasions. Miller experienced similar issues with Robinson trying to direct the mayor's work, and claimant's issues with Robinson were never resolved. Claimant informed Miller that he was leaving his employment due to Robinson.

The administrative record reflects that claimant has received unemployment benefits in the amount of \$5,904.00, since filing a claim with an effective date of October 11, 2020, for the twelve weeks ending January 2, 2021. Employer did participate in the fact finding interview through Roy Miller and Gary Erhle.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was with good cause attributable to the employer.

Iowa Code section 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.

The claimant has the burden of proof to establish he quit with good cause attributable to the employer, according to Iowa law. "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).

Ordinarily, "good cause" is derived from the facts of each case keeping in mind the public policy stated in Iowa Code section 96.2. *O'Brien v. EAB*, 494 N.W.2d 660, 662 (Iowa 1993)(citing *Wiese v. Iowa Dep't of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986)). "The term encompasses real circumstances, adequate excuses that will bear the test of reason, just grounds for the action, and always the element of good faith." *Wiese v. Iowa Dep't of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986) "[C]ommon sense and prudence must be exercised in evaluating all of the circumstances that lead to an employee's quit in order to attribute the cause for the termination." *Id.*

Iowa Admin. Code r. 871-24.26(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.

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. 871 IAC 24.26(4). While a claimant does not have to specifically

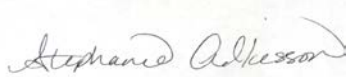
indicate or announce an intention to quit if her concerns are not addressed by the employer, for a reason for a quit to be “attributable to the employer,” a claimant faced with working conditions that he considers intolerable, unlawful or unsafe must normally take the reasonable step of notifying the employer about the unacceptable condition in order to give the employer reasonable opportunity to address his concerns. *Hy-Vee Inc. v. Employment Appeal Board*, 710 N.W.2d 1 (Iowa 2005); *Swanson v. Employment Appeal Board*, 554 N.W.2d 294 (Iowa 1996); *Cobb v. Employment Appeal Board*, 506 N.W.2d 445 (Iowa 1993). If the employer subsequently fails to take effective action to address or resolve the problem it then has made the cause for quitting “attributable to the employer.”

Claimant has carried his burden of proving the voluntary leaving was for good cause attributable to employer. He had taken reasonable steps to preserve his employment prior to quitting. Claimant brought the issues creating the detrimental working conditions to employer and they were not resolved. A reasonable person would quit under the circumstances. Claimant's separation from employment is therefore not disqualifying and benefits are allowed, provided he is otherwise eligible.

As claimant is eligible for benefits, the issue of overpayment is moot.

DECISION:

The December 17, 2020, (reference 01) unemployment insurance decision is affirmed. The claimant voluntarily left his employment with good cause attributable to the employer. Benefits are allowed, provided he is otherwise eligible. The issue of overpayment is moot.



Stephanie Adkisson
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

March 15, 2021
Decision Dated and Mailed

sa/scn

Note to Claimant: This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits due to disqualifying separations, but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.