

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**RANDY BOOSE**  
Claimant

**TYSON FRESH MEATS INC**  
Employer

**APPEAL 21A-UI-23398-AR-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 09/26/21**  
**Claimant: Appellant (1)**

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Iowa Code § 96.5(1) – Voluntary Quitting

**STATEMENT OF THE CASE:**

The claimant, Randy Boose, filed an appeal from the October 19, 2021, (reference 01) unemployment insurance decision that denied benefits based upon the determination that claimant voluntarily quit employment with the employer, Tyson Fresh Meats, Inc., for personal reasons. The parties were properly notified of the hearing. A telephone hearing was held on December 13, 2021. The claimant participated personally. The employer did not participate.

**ISSUE:**

Did the claimant voluntarily quit employment without good cause attributable to the employer?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time, most recently as a social distancing monitor, from August 2018, until this employment ended on September 23, 2021, when he resigned.

The employer notified employees that, effective November 1, 2021, all employees must get the COVID-19 vaccine or their employment would be terminated. Claimant did not want to receive the vaccine because of concerns he had about its safety. He knew of a few people who died directly after receiving the vaccine. Claimant decided that he would retire from employment rather than take the vaccine. He did not speak with HR or anyone else at the employer about his concerns regarding the vaccine.

**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 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.

Iowa Admin. Code r. 871—24.25 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:

(29) The claimant left in anticipation of a layoff in the near future; however, work was still available at the time claimant left the employment.

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. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973). 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's resignation in lieu of the *possibility* of discharge is analogous to resignation in anticipation of layoff when work is still available to him. Claimant has not demonstrated that he sought out alternatives to resignation, or that he established that discharge was a certainty. He did not speak with HR or anyone else at the employer about his concerns regarding the COVID-19 vaccine. There is no evidence that he requested a waiver of the vaccine requirement prior to resigning. He did not exhaust the avenues available to him before concluding that resignation was appropriate. While claimant's leaving 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 are denied.

**DECISION:**

The October 19, 2021, (reference 01) unemployment insurance decision is affirmed. The claimant voluntarily left his 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.



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Alexis D. Rowe  
Administrative Law Judge

January 18, 2022  
Decision Dated and Mailed

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