IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS

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

GARY E UPTON
Claimant

CNH AMERICA LLC
Employer

APPEAL NO. 12A-UI-03294-VST

ADMINISTRATIVE LAW JUDGE DECISION

OC: 02/12/12
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed an appeal from a representative's decision dated March 22, 2012, reference 01, which held that the claimant was not eligible to receive unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on April 17, 2012. The claimant participated. Mike Edwards, chairman of bargaining for UAW Local 807, was a witness for the claimant. The employer participated by Rachel Taber, labor relations specialist. The hearing could not be completed on April 17, 2012, and was rescheduled for May 17, 2012. Only the claimant participated when the hearing was reconvened. The claimant was asked whether he wanted to call an additional witness that had been available for the April 17, 2012, hearing and the claimant said no. The record consists of the testimony of Gary Upton and the testimony of Mike Edwards.

ISSUE:

Whether the claimant voluntarily left for good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The claimant worked as a full-time power coat painter for the employer. He was hired on June 26, 2006. His actual last day of work was November 2, 2011. He quit his job on November 2, 2011.

The claimant quit his job because he was having difficulty with a co-worker and supervisor. The co-worker and supervisor were living together and tended to bring their domestic problems into the workplace. The claimant felt that the co-worker used her relationship with the supervisor to her advantage and that she did not cooperate with him in getting the work done. The claimant began missing work and was having physical symptoms for which he was seeking medical advice.

The claimant did seek some assistance from his union, but he did not approach human resources or other management. The employer and the union knew that the claimant was disgruntled. The employer did not want to terminate the claimant. At the final meeting on November 2, 2011, the claimant told the employer that he wanted to go back to school. The employer did not force the claimant to resign.

REASONING AND CONCLUSIONS OF LAW:

871 IAC 24.25(21) and (22) provide:

> 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:
>
> (21) The claimant left because of dissatisfaction with the work environment.
>
> (22) The claimant left because of a personality conflict with the supervisor.

A quit is a separation initiated by the employee. 871 IAC 24.1(113)(b). In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

The evidence in this case established that it was the claimant who initiated the separation of employment. The claimant testified that he found himself in what believed was a hostile work environment and began missing work days due to physical symptoms. His attendance deteriorated to point where he was facing possible suspension. There is no evidence that employer had any intention of actually terminating the claimant. Mike Edwards, a union official, testified that the employer did not want to terminate the claimant and was trying to find out what was going on. The claimant indicated to the employer, in Mr. Edwards' presence, that he was trying to go back to school. The claimant clearly initiated the separation of employment. He simply did not want to return to the work environment.

The question then becomes whether the claimant voluntarily quit with good cause attributable to the employer. It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. He voluntarily quit his employment on November 2, 2011, due to what he called a hostile work environment. Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See 871 IAC 24.26(4). The test is whether a reasonable person would have quit under the circumstances. See Aalbers v. Iowa Department of Job Service, 431 N.W.2d 330 (Iowa 1988) and O'Brien v. Employment Appeal Bd., 494 N.W.2d 660 (1993). Aside from quits based on medical reasons, prior notification of the employer before a resignation for intolerable or detrimental working conditions is not required. See Hy-Vee v. EAB, 710 N.W.2d (Iowa 2005).

The evidence provided by the claimant does not rise to an intolerable or detrimental work environment. “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 So.2d 827 (Florida App. 1973). The claimant was deeply bothered by his interaction with an employee who had a live-in relationship with one of the supervisors. The claimant thought that she used her living arrangements as a way of avoiding work. He made the comment that he could not get her to help him and there were apparently arguments between them. This situation began to affect the claimant physically and he started calling off work to the point where attendance was becoming a matter of concern.

The most persuasive evidence came from Mr. Edwards, the union official. Mr. Edwards emphasized that the union tries to intervene and work out problems in the workplace without going through the formal grievance process. He knew that the claimant had some concerns but he knew of nothing significantly wrong in the workplace. The claimant never filed a grievance, nor did he contact human resources or other management. No witness corroborated the claimant’s view of the workplace. The administrative law judge understands that the claimant was upset about the co-worker and the supervisor and that there was a personality conflict at play. This does not constitute good cause attributable to the employer. The claimant may have had good personal reasons for quitting his job, but there is simply insufficient evidence in this record to show that the claimant was in an intolerable or detrimental work environment. Benefits are therefore denied.

DECISION:

The representative’s decision dated March 22, 2012, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until the claimant 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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Vicki L. Seeck
Administrative Law Judge

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Decision Dated and Mailed

vls/kjw