

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LAWRENCE B HUGHES

Claimant

APPEAL 22A-UI-04603-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

PRESTAGE FOODS OF IOWA LLC

Employer

OC: 01/16/22

Claimant: Respondent (4R)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

On February 15, 2022, Prestage Foods of Iowa LLC (employer/appellant) filed an appeal from the Iowa Workforce Development (“IWD”) decision dated February 10, 2022 (reference 01) that allowed unemployment insurance benefits based on a finding that claimant was discharged on December 30, 2022¹ without a showing of misconduct.

A telephone hearing was held on April 12, 2022. The parties were properly notified of the hearing. Employer participated by Benefits and Compensation Specialist Loreen Yeager. Lawrence Hughes (claimant/respondent) participated personally.

Claimant’s Exhibit 1 was admitted. Employer’s Exhibit A was admitted. Official notice was taken of the administrative record.

ISSUE(S):

- I. Was there a disqualifying separation from employment?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant began working for employer on March 29, 2021. The last day claimant worked on the job was December 30, 2021. Claimant resigned effective that date to work for employer’s sister company, Prestage Farms of Iowa LLC (#331876). Claimant had been offered and accepted a “transfer” to a driver position with that entity several weeks earlier. Claimant was set to begin work there on January 3, 2022. Claimant became ill and was unable to begin until January 5, 2022. At that time he was told by Rich at Prestage Farms there was no work available for him there.

¹ The administrative law judge notes this appears to be a typographical error as it is a future date.

REASONING AND CONCLUSIONS OF LAW:

For the reasons set forth below, the decision dated February 10, 2022 (reference 01) that allowed unemployment insurance benefits based on a finding that claimant was discharged on December 30, 2022 without a showing of misconduct is MODIFIED in favor of appellant.

I. Was there a disqualifying separation from employment?

Iowa Code section 96.5(1) 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.

Iowa Admin. Code r. 871-24.28(5) provides:

Voluntary quit requalifications and previously adjudicated voluntary quit issues.

(5) The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment. The employment does not have to be covered employment and does not include self-employment.

Iowa Admin. Code r. 871-23.43(5) provides:

(5) Sole purpose. The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment. No charge shall accrue to the account of the former voluntarily quit employer.

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).

In this case, the claimant did not have the option of remaining employed nor did he express intent to terminate the employment relationship. Where there is no expressed intention or act to sever the relationship, the case must be analyzed as a discharge from employment. *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992).

Claimant's separation from employment was disqualifying. He quit to accept a new job but did not perform work in the new job. He has not otherwise established a good cause reason or quitting attributable to employer.

However, because claimant quit for the sole purpose of accepting an offer of other or better employment and was separated from that new employer, he requalified for and is eligible for benefits. For this same reason the former employer – Prestage Foods – shall not be charged for benefits paid.

Because claimant requalified for and was eligible for benefits the issue of whether he was overpaid benefits need not be addressed. However, the issue of whether claimant's separation from Prestage Farms of Iowa LLC (#331876) was disqualifying must be remanded for a fact-finding interview and determination.

DECISION:

The decision dated February 10, 2022 (reference 01) that allowed unemployment insurance benefits based on a finding that claimant was discharged on December 30, 2022 without a showing of misconduct is MODIFIED in favor of appellant. Claimant's separation from employment was disqualifying but he subsequently requalified for and is eligible for benefits. Employer shall not be charged for benefits paid. The decision is further modified to reflect the correct date of separation is December 30, 2021.

REMAND:

The issue of whether claimant's separation from Prestage Farms of Iowa LLC (#331876) was disqualifying is remanded for a fact-finding interview and determination.



Andrew B. Duffelmeyer
Administrative Law Judge
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Fax (515) 478-3528

April 15, 2022
Decision Dated and Mailed

abd/jh