

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TRACY A FRINK
Claimant

APPEAL NO. 14A-UI-03607-SW

**ADMINISTRATIVE LAW JUDGE
DECISION**

IOWA PROTEIN TRANSPORTATION LLC
Employer

OC: 03/02/14
Claimant: Appellant (1)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated March 25, 2014, reference 01, that concluded he voluntarily quit employment without good cause attributable to the employer. An in-person hearing was held in Spencer, Iowa, on May 20, 2014. The parties were properly notified about the hearing. The claimant participated in the hearing. Alfredo Moreno participated in the hearing on behalf of the employer with witnesses, Andrew Stolley and Mike Smith.

ISSUE:

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

FINDINGS OF FACT:

The claimant worked full time for the employer as a maintenance mechanic from June 14, 2013, to February 20, 2014.

On February 20, 2014, the maintenance manager, Andrew Stolley, was working on a truck repair. He noticed the claimant talking to a truck driver for a considerable period and then leaving the building to have a cigarette. Stolley asked the claimant if he had finished with the trailer he was working on, and the claimant said he had. Stolley told the claimant to find something else to do. The claimant got upset and asked Stolley what he was supposed to do. When Stolley said he should get the trailer out, the claimant angrily asked "What trailer?" Stolley told the claimant that he did care what he did, but he needed to keep working. Stolley and the claimant then exchanged profanities. Stolley told the claimant that if he was not going to do what Stolley told him, he could leave. The claimant then punched the bathroom door and said that he was quitting. He went to his locker and started throwing things out. The human resources manager, Alfredo Moreno, approached the claimant to try and get him calmed down and asked that he come to the office to talk, but the claimant punched out and left in his car.

A short time later, the claimant returned to talk to Moreno. He told Moreno that he did not want to quit and would like to set up a meeting to resolve things. The claimant had previously arranged to be off work on February 21 and 24. On February 24, Moreno told the claimant that the employer considered him to have voluntarily quit.

The claimant voluntarily quit his employment when he stated that he was quitting and punched out. He quit because he was upset about Stolley suggesting he wasn't working and Stolley's treatment of him.

REASONING AND CONCLUSIONS OF LAW:

The 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.

The findings of fact show how I resolved the disputed factual issues in this case by carefully assessing the credibility of the witnesses and reliability of the evidence and by applying the proper standard and burden of proof. Both Stolley and the transportation manager, Mike Smith, testified that the claimant said he was quitting. At the appeal hearing, the claimant testified that he said, "I should f---ing leave this job." Stolley and Smith testified credibly. I do not believe the claimant's testimony that he stated that he should leave—making it indefinitely. After saying that he was quitting, the claimant punched out and got in his car. The preponderance of the evidence shows the claimant had second thoughts about quitting and tried to rescind his statement that he was quitting.

Iowa Admin. Code r. 871-24.25(37) provides that the following reason for a voluntary quit is be presumed to be without good cause attributable to the employer: "The claimant will be considered to have left employment voluntarily when such claimant gave the employer notice of an intention to resign and the employer accepted such resignation."

Once the claimant notified the employer that he was quitting and punched out, a voluntary quit was established. The fact that he later changed his mind but the employer accepted that he had quit and would not allow him to rescind his quitting does not transform the quit into a discharge.

Iowa Admin. Code r. 871-24.25(22) provides that a claimant who leaves employment because of a personality conflict with the supervisor is presumed to have quit without good cause attributable to the employer.

The claimant left his employment due to a conflict with his supervisor because he was upset about Stolley suggesting he wasn't working and Stolley's treatment of him. Both he and Stolley lost their tempers and used profanity as they argued over what the claimant should be working on. The claimant has not shown intolerable working conditions or other good cause attributable to the employer for quitting.

DECISION:

The unemployment insurance decision dated March 25, 2014, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs