

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JAMES G HIGGINS
Claimant

ALVINO MESA
Employer

APPEAL NO. 18A-UI-10461-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 09/23/18
Claimant: Appellant (1)

Iowa Code § 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated October 10, 2018, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on November 2, 2018. Claimant participated and had witness Mike Steil. Employer participated by Alvino Mesa and Marie Mesa.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on September 4, 2018. Claimant was contacted by employer on September 5, 2018 concerning an incident that occurred at claimant's job on September 2, 2018. On that date, claimant left his job as a security job at Transwood Trucking as he was burned out. Claimant had his girlfriend work in his place for a number of hours. Claimant didn't notify employer or the client where they were providing security that he was doing this. Claimant did register himself as working those hours when he was gone.

The Transwood manager contacted employer to tell about claimant's absence. Employer and the Transwood manager reached an agreement that claimant would no longer work at the Transwood station. Employer called claimant to inform him of this matter. Employer then offered claimant a job working for another client. Claimant hung up the phone and called the Transwood manager. Claimant stated that the Transwood manager told him that he would take him back. Claimant called employer and told employer of his discussion with the Transwood manager.

Employer stated that claimant would not be going back to Transwood, and that he could take his new assignment at the same wages and approximately same hours. Claimant was upset with this offer and hung up on employer and never called back or showed up for work again. Claimant stated that the new job was dramatically different than his old job. Whereas the previous job allowed claimant to drive around the lot he was watching, the new job would

require him to walk around the lot – in all weather conditions. Claimant would also be asked to write down much more information than he'd previously been asked to write down and take temperature readings of the trailers.

Claimant stated that he did not have a medical excuse for not being able to do the new job. Claimant also stated that a person under his watch was able to bring her child or children to work and she wasn't punished. Claimant acquiesced to abandoning his post and having a non-employee work for him.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 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.

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship, because he didn't want to accept the new assignment after being removed from his old assignment for violating company rules.

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. IA Dept. 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 test of good faith." *Wiese v. IA Dept. of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986). "Common sense and prudence must be exercised in evaluating all of the circumstances that led to an employee's quit in order to attribute the cause for the termination." *Id.*

Claimant could have reasonably been terminated from his job for job abandonment when he left his post without notifying his employer or the client. Employer chose to continue working with claimant, although he addressed his client's concerns by removing the client from the facility. Although claimant contacted the client, and stated that the client would take him back, employer was under no obligation to change the agreement to remove the claimant from that job. Employer sought to be generous in extending new employment to claimant, but claimant didn't want to have to walk around a lot frequently and take many more notes than his previous placement required. The administrative law judge does not find that the new position constituted a substantial change in circumstances such that claimant was reasonable in quitting his employment.

DECISION:

The decision of the representative dated October 10, 2018, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed

bab/scn