

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

RYAN JOHNSON
Claimant

JC TOLAND PAINTING LLC
Employer

APPEAL 21A-UI-06754-SN-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 01/03/21
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quit
Iowa Admin. Code r. 871-24.26(4) – Intolerable working conditions

STATEMENT OF THE CASE:

The claimant filed an appeal from the February 24, 2021, (reference 03) unemployment insurance decision that denied benefits based upon his voluntary quit. The parties were properly notified about the hearing. A telephone hearing was held on May 11, 2021. The claimant participated and testified. The employer participated through Human Resources Manager Mandy Campbell and Superintendent Mike Briggs. The administrative law judge took official notice of the agency records. Exhibit A was admitted into the record.

ISSUE:

Was the separation a layoff, discharge for misconduct or voluntary quit without good cause attributable to the employer?

FINDINGS OF FACT:

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

The claimant was employed full-time as a painter for the employer, JC Toland Painting LLC, from September 2, 2020, and was separated from employment on October 27, 2020, when he quit. The claimant's immediate supervisor was Superintendent Mike Briggs.

On October 27, 2020, Mr. Briggs contacted the claimant because his foreman told him that he was not at the worksite. The claimant said he could not make it to work due to matters in his personal life. The claimant explained that he had just gone through a break up and he had to get his truck fixed.

On October 29, 2020, Mr. Briggs told the claimant to take some time off to get "everything sorted out" and asked for the claimant to let him know when things were better. The claimant said he appreciated Mr. Briggs letting him get his life back together. The claimant said he was going to Texas.

The claimant did not contact Mr. Briggs again until November 22, 2020. At that time, the claimant said he was ready for work. Mr. Briggs asked him to contact him on the following morning.

The claimant did not contact Mr. Briggs again until December 17, 2020. On that day, the claimant said he was returning from Texas and asked if work was available. Mr. Briggs told the claimant that he did not have work available. This is due to the seasonal nature of the work. In the past, Mr. Briggs had hired the claimant back on during other times of the year when work was readily available.

The claimant provided a text message he received from Mr. Briggs on February 18, 2021. In the text message, Mr. Briggs states the claimant was gone for a month and he had to terminate the claimant. Mr. Briggs states the claimant had to get his personal life in order so he granted a leave of absence. Mr. Briggs then states his conclusion that the claimant quit. (Exhibit A)

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:

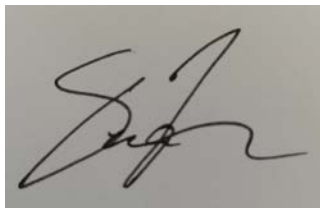
(20) The claimant left for compelling personal reasons; however, the period of absence exceeded ten working days.

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).

In the hearing, the parties disagreed about whether the claimant was technically on a leave of absence. They did not disagree the claimant was gone for more than 10 days for personal reasons. As a result, the claimant is disqualified from benefits under Iowa Admin. Code r. 871-24.25(20). 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 February 24, 2021, (reference 03) 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.



Sean M. Nelson
Administrative Law Judge
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May 19, 2021
Decision Dated and Mailed

smn/scn