

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DANA L COOK SR
Claimant

APPEAL 20A-UI-06301-BH-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

JC FLEMING INC
Employer

OC: 04/26/20
Claimant: Appellant (1)

Iowa Code section 96.5(1) – Voluntary Quit

Iowa Administrative Code rule 871-24.25 – Voluntary Quit Without Good Cause Attributable to the Employer

Iowa Administrative Code rule 871-24.26 – Voluntary Quit With Good Cause Attributable to the Employer

STATEMENT OF THE CASE:

The claimant, Dana L. Cook, Sr., appealed the June 4, 2020 (reference 01) unemployment insurance decision that denied benefits based upon a finding Cook voluntary quit his job with JC Fleming, Inc. (JC Fleming) without good cause attributable to the employer. The agency properly notified the parties of the appeal and hearing.

The undersigned presided over a telephone hearing on July 20, 2020. Cook participated personally and testified. JC Fleming participated through Chad Beck, who testified.

ISSUES:

Was Cook's separation from employment with JC Fleming 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 undersigned finds the following facts.

JC Fleming hired Cook in 2015. He worked full time as a mechanic, welder, and fabricator. Beck was his supervisor. Cook quit his job with JC Fleming on April 28, 2020, because of the worsening health of his lungs caused primarily by smoking cigarettes that left him no longer able to work. JC Fleming had ongoing work available for Beck if he had not quit.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the undersigned concludes Cook quit his job with JC Fleming without good cause attributable to the employer.

Iowa Code section 96.1(1) disqualifies a claimant from benefits if the claimant quit their job without good cause attributable to the employer. The Iowa Supreme Court has held that good cause requires “real circumstances, adequate excuses that will bear the test of reason, just grounds for the action, and always the element of good faith.” *Wiese v. Iowa Dep’t of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986). Moreover, the court has advised that “common sense and prudence must be exercised in evaluating all of the circumstances that lead to an employee’s quit in order to attribute the cause for the termination.” *Wiese v. Iowa Dep’t of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986).

According to the Iowa Supreme Court, good cause attributable to the employer does not require fault, negligence, wrongdoing or bad faith by the employer. *Dehmel v. Employment Appeal Bd.*, 433 N.W.2d 700, 702 (Iowa 1988). Good cause may be attributable to “the employment itself” rather than the employer personally and still satisfy the requirements of the Act. *E.g. Raffety v. Iowa Employment Security Commission*, 76 N.W.2d 787, 788 (Iowa 1956). The test is an objective one:

A burden-shifting framework is used to evaluate quit cases. Because an employer may not know why a claimant quit, the claimant has the initial burden to produce evidence suggesting the claimant is not disqualified from benefits under Iowa Code section 96.5(1) *a* through *j* and section 96.10. If the claimant produces such evidence, the employer has the burden to prove the claimant is disqualified from benefits under section 96.5(1).

Iowa Administrative Code rule 24.25 creates a presumption a claimant quit without good cause attributable to the employer in certain circumstances. Iowa Administrative Code rule 24.26 identifies reasons for quitting that are considered for good cause attributable to the employer. Under rule 24.35, it is presumed a claimant quit without good cause attributable to the employer if:

The claimant left because of illness or injury which was not caused or aggravated by the employment or pregnancy and failed to:

- a. Obtain the advice of a licensed and practicing physician;
- b. Obtain certification of release for work from a licensed and practicing physician;
- c. Return to the employer and offer services upon recovery and certification for work by a licensed and practicing physician; or
- d. Fully recover so that the claimant could perform all of the duties of the job.

Here, the evidence shows that Cook could no longer perform his job duties at JC Fleming because his doctor prescribed oxygen for Cook’s worsening lung health. Cook never returned to JC Fleming because he has not recovered or received certification of such from a licensed and practicing physician. For these reasons, Cook quit without good cause attributable to the employer. Benefits are denied.

DECISION:

Regular Unemployment Insurance Benefits Under State Law

The June 4, 2020 (reference 01) unemployment insurance decision is affirmed. Cook voluntarily left employment without good cause attributable to JC Fleming. Benefits are withheld until such time as Cook has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Pandemic Unemployment Assistance (PUA) Under the Federal CARES Act

Even though Cook is not eligible for regular unemployment insurance benefits under state law, he may be eligible for federally funded unemployment insurance benefits under the CARES Act. Section 2102 of the CARES Act creates a new temporary federal program called Pandemic Unemployment Assistance (PUA) that in general provides up to 39 weeks of unemployment benefits. An individual receiving PUA benefits may also receive the \$600 weekly benefit amount (WBA) under the Federal Pandemic Unemployment Compensation (FPUC) program if he is eligible for such compensation for the week claimed.

This decision does not address whether Cook is eligible for PUA. For a decision on such eligibility, Cook must apply for PUA, as noted in the instructions provided in the "Note to Claimant" below.



Ben Humphrey
Administrative Law Judge

July 27, 2020
Decision Dated and Mailed

bh/sam

NOTE TO CLAIMANT:

- This decision determines you are not eligible for regular unemployment insurance benefits under state law. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision.
- If you do not qualify for regular unemployment insurance benefits under state law and are currently unemployed for reasons related to COVID-19, you may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** For more information about how to apply for PUA, go to:

<https://www.iowaworkforcedevelopment.gov/pua-information>