

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

NICK D KELLY
Claimant

JAY HANUMAN INC
Employer

APPEAL 15A-UI-05693-JCT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/19/15
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

The claimant filed an appeal from the May 5, 2015, (reference 01) unemployment insurance decision that denied benefits based upon separation. The parties were properly notified about the hearing. A telephone hearing was held on June 18, 2015. The claimant participated. The employer participated through Hiren Patel.

ISSUE:

Did the claimant voluntarily leave the employment with good cause attributable to employer or did employer discharge the claimant for reasons related to job misconduct sufficient to warrant a denial of benefits?

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 desk clerk and was separated from employment on April 11, 2015, when he quit. Continuing work was available.

The claimant completed his final shift which ended the morning of April 11, 2015. The claimant's fiancée, Holly, also worked for the employer and was scheduled to work the evening shift. On the day of April 11, 2015, the claimant's father had a heart attack. The claimant notified Hiren Patel, so that he and his fiancée could be at the hospital. Mr. Patel asked the claimant to arrange for Stephanie to cover the front desk until he could arrive on site, and the claimant did so. While at the hospital, the claimant and his fiancée received calls from Mr. Patel, who was concerned about the claimant. The claimant did not respond to the calls. The claimant's fiancée received a text message requesting when the claimant and she returned to town, to give the keys to Mr. Patel. The claimant and his fiancée were then scheduled off April 13 to 20 for their wedding. On April 19, 2015, the claimant and his fiancée came to pick up their paycheck and left the keys. No discussion was ever had with Mr. Patel as to why he needed the keys, but he needed them to cover the location while the claimant and his fiancée were off for their wedding. At no time, was the claimant told he was fired, either in writing or verbally, and Mr. Patel believed the claimant was going to return on April 20 after the wedding.

The claimant had no disciplinary action against him and Mr. Patel had no intention of disciplining him for calling off work to be with his father.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was not discharged but voluntarily quit the employment without good cause attributable to employer.

Iowa Code § 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

Iowa Code § 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.

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). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2) (amended 1998). Generally, when an individual mistakenly believes they are discharged from employment, but was not told so by the employer, and they discontinue reporting for work, the separation is considered a quit without good cause attributable to the employer. *LaGrange v. Iowa Dep't of Job Serv.*, (No. 4-209/83-1081, Iowa Ct. App. filed June 26, 1984).

In this case, the claimant notified his employer that his father had a heart attack and went to the hospital to be with him. At no time, was the claimant warned that doing so would result in his discharge. The claimant called off his next shift due to his father, and then was on vacation for a week to get married. Because both he and his future wife were responsible for covering the front desk, the employer requested keys via text message, after multiple calls to the claimant, which were unsuccessful. Mr. Patel did not explain the keys were for coverage purposes since the claimant and his fiancée were going to be away for several days, nor did he ever allude to the claimant being fired or even disciplined for being off work before his scheduled vacation. The claimant erroneously assumed he had been fired, without any discussion or communication with the employer about the events in his final week of employment, and without prior indication that his job was in jeopardy. The claimant's abandoning of his job by failing to return to work after the vacation was a voluntary quit without good cause under Iowa law. Benefits are denied.

DECISION:

The May 5, 2015, (reference 01) decision is affirmed. The claimant was not discharged but voluntarily quit the employment without good cause attributable to 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.

Jennifer L. Coe
Administrative Law Judge

Decision Dated and Mailed

jlc/mak