

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TRAMAIN GARY
Claimant

PACKERS SANITATION SERVICES INC
Employer

APPEAL 20A-UI-10569-J1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 5/31/20
Claimant: Appellant (2)

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

STATEMENT OF THE CASE:

On September 2, 2020, the claimant filed an appeal from the August 29, 2020, (reference 03) unemployment insurance decision that denied benefits based on voluntary quit. The parties were properly notified about the hearing. A telephone hearing was held on October 15, 2020. Claimant participated. Employer participated through Adera Ramirez, Supervisor.

ISSUE:

Did claimant's employment end due to a disqualifiable reason?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on March 10, 2020. Claimant last worked as a full-time team member and sprayer. Claimant was separated from employment as of June 3, 2020 when he was considered to have been a three day No Call/No Show and was considered to have abandoned his employment.

Claimant testified that his job was a cleaning crew that cleaned the Tyson meatpacking plant in Waterloo, Iowa. The Tyson plant was shut down for a couple of weeks toward the end of April. Neither claimant or Ms. Ramirez were certain of the dates of the closure. Employees were told that before they could return to work they needed to be tested for Covid-19 and present a note from a doctor allowing a return to work. Ms. Ramirez said she called a number of employees to tell them to get a test and note so that they could return to work. Ms. Ramirez did not know if she spoke to claimant. Claimant was able to obtain the test and a doctor's note in about 11 days and presented it to the employer around June 9, 2020. Claimant was told he had been terminated.

REASONING AND CONCLUSIONS OF LAW:

Iowa 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 burden of proof rests with the employer to show that the claimant voluntarily left his employment. *Irving v. Emp't Appeal Bd.*, 883 N.W.2d 179 (Iowa 2016). A voluntary quitting of employment requires that an employee exercise a voluntary choice between remaining employed or terminating the employment relationship. *Wills v. Emp't Appeal Bd.*, 447 N.W.2d 137, 138 (Iowa 1989); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438, 440 (Iowa Ct. App. 1992).

There is no evidence that claimant wanted to leave his employment. The claimant was put on an involuntary leave of absence. The employer did not present credible evidence that claimant was provided a specific time to return to work and that claimant failed to meet that deadline. Claimant was able to get a test and a note from his doctor. Claimant testified he called into work. There was no evidence of misconduct. I find that claimant was terminated for no disqualifiable reason.

DECISION:

Regular Unemployment Insurance Benefits Under State Law

The August 28, 2020, (reference 03) unemployment insurance decision is reversed. Benefits are payable, provided claimant is otherwise eligible.



James F. Elliott
Administrative Law Judge

October 19, 2020
Decision Dated and Mailed

je/sam