

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

AHMED MOHAMMAD
Claimant

STAFF MANAGEMENT SOLUTIONS, LLC
Employer

APPEAL 20A-UI-13027-AD-T
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 04/26/20
Claimant: Appellant (2)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

On October 21, 2020, Ahmed Mohammad (claimant/appellant) filed a timely appeal from the October 12, 2020 (reference 01) unemployment insurance decision that denied benefits based on a finding claimant voluntarily quit work on April 3, 2020 for personal reasons.

A telephone hearing was held on December 9, 2020. The parties were properly notified of the hearing. The claimant participated personally and with the assistance of an Arabic-language interpreter. A representative of Staff Management Solutions, LLC (employer/respondent) registered a number for the hearing but was unavailable at the number registered and did not participate.

Official notice was taken of the administrative record.

ISSUE(S):

- I. Was the separation from employment a layoff, discharge for misconduct, or voluntary quit without good cause?

FINDINGS OF FACT:

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

Claimant began working for employer in 2016. Claimant was most recently working on a production line at P&G. In this position, claimant was working in close quarters with many other employees. Proper social distancing was not adhered to and mask use was inconsistent. Claimant brought this concern to the head supervisor, Susan Murphy, on or about April 3, 2020. Claimant was concerned that COVID-19 may spread in the facility in these conditions. Claimant's concerns were not addressed and he accordingly refused to return to work.

Murphy subsequently contacted claimant on or about June 22, 2020. She notified him that employer had addressed his concerns and requested he return to work. Claimant did return for approximately a week. However, he again resigned on or about July 2, 2020. While employees were wearing masks, social distancing guidelines were still not being followed. Claimant was

unaware of specific employees contracting COVID-19. However, claimant noticed employees would be gone from the line without explanation. He also learned through news coverage that individuals at the facility had contracted COVID-19. Murphy herself was working from home, which also led claimant to believe the working conditions were unsafe. Claimant attempted to reach Murphy by phone prior to resigning but was unable to reach her. He instead left a note for her indicating he still did not feel the workplace was safe and resigning again for those reasons.

REASONING AND CONCLUSIONS OF LAW:

For the reasons set forth below, the decision dated October 12, 2020 (reference 01) that denied benefits based on a finding claimant voluntarily quit work on April 3, 2020 for personal reasons is REVERSED.

Iowa Code section 96.5(1)a 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.

Iowa Admin. Code r. 871-24.26 provides in relevant part:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(2) The claimant left due to unsafe working conditions.

(4) The claimant left due to intolerable or detrimental working conditions.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). The employer has the burden of proving that a claimant's departure from employment was voluntary. *Irving v. Emp't Appeal Bd.*, 883 N.W.2d 179 (Iowa 2016). "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". *Id.* (citing *Cook v. Iowa Dept. of Job Service*, 299 N.W.2d 698, 701 (Iowa 1980)).

"Good cause" for leaving employment must be that which is reasonable to the average person, not to the overly sensitive individual or the claimant in particular. *Uniweld Products v. Industrial Relations Commission*, 277 S.2d 827 (Florida App. 1973). While a notice of intent to quit is not required to obtain unemployment benefits where the claimant quits due to intolerable or detrimental working conditions, the case for good cause is stronger where the employee complains, asks for correction or accommodation, and employer fails to respond. *Hy-Vee Inc. v. EAB*, 710 N.W.2d 1 (Iowa 2005).

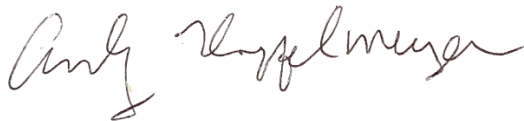
Iowa unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code §§ 96.5(1) and 96.5(2)a. A voluntary quitting of employment requires that an employee exercise a voluntary 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). 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 administrative law judge finds claimant has carried his burden of proving the voluntary leaving was for good cause attributable to employer. A reasonable person would have found the working conditions to be unsafe, intolerable, or detrimental. Specifically, the lack of proper social distancing in an enclosed area during a pandemic was unsafe and caused well-founded concern for claimant. Claimant brought these concerns to employer and they were largely unaddressed. Claimant's separation from employment was therefore not disqualifying and he is eligible for benefits, provided he meets all other eligibility requirements.

DECISION:

The decision dated October 12, 2020 (reference 01) that denied benefits based on a finding claimant voluntarily quit work on April 3, 2020 for personal reasons is REVERSED. The separation from employment was not disqualifying. Benefits are allowed, provided claimant is not otherwise disqualified or ineligible.



Andrew B. Duffelmeyer
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December 17, 2020
Decision Dated and Mailed

abd/scn