

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

68-0157 (9-06) - 3091078 - EI

**TIM J KEISTER**  
Claimant

**APPEAL NO: 18A-UI-09479-JE-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**HY-VEE INC**  
Employer

**OC: 08/26/18**  
**Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Leaving

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the September 11, 2018, reference 01, decision that denied benefits. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on September 28, 2018. The claimant participated in the hearing. Wannette Moore, Human Resources Manager and Barbara Buss, Employer Representative, participated in the hearing on behalf of the employer.

**ISSUE:**

The issue is whether the claimant voluntarily left his employment with 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 as a full-time meat clerk for Hy-Vee from June 14, 2012 to July 17, 2018. He voluntarily left his employment by walking off the job July 9, 2018.

On July 9, 2018, the claimant arrived at 8:21 a.m. for his 8:00 a.m. shift. He left for lunch at 11:10 a.m. and did not return to work. At 12:24 p.m. his manager, Jordan Fenton, texted him and asked where he was. The claimant responded, "I don't think I'll be back. Too much for me so it's time to go. Thanks for all you did for me. I'm truly sorry. I just can't be here anymore. I'm tired." The claimant was scheduled to work at 8:00 a.m. July 10, 2018. Around 8:15 a.m. Human Resources Manager Wannette Moore was paged from customer service stating the claimant was there and wanted to talk to his manager, Mr. Fenton, but had been referred to Ms. Moore. The claimant went to Ms. Moore's office and she called Manager of Store Operations Brad Gerber. The claimant was not in his uniform and was agitated. Ms. Moore asked the claimant what happened July 9, 2018, and he stated he was having issues in his personal life and "just couldn't do it anymore." Ms. Moore showed him the text message he sent to Mr. Fenton and asked what his intentions were and why he did not return from lunch. The claimant said he "just couldn't do it anymore" and had a lot going on. He said he needed to talk to someone and get some help. Ms. Moore asked the claimant if he talked to Mr. Fenton before leaving the day before and why he left. The claimant stated he was "very vocal in the cooler"

but did not know if anyone heard him and that he walked to the time clock and “made it very clear he was done and couldn’t take it anymore.” He told Mr. Moore and Mr. Gerber that Mr. Fenton had “helped him enough” but due to his “personal life he had too much going on.” He said he did not know what to do and needed to talk to someone. Ms. Moore offered the claimant an EAP packet and told him about the benefits of the program and the claimant said he was going to call EAP. The claimant asked about his job status. Ms. Moore said he walked off the job and texted Mr. Fenton saying he was done and the employer accepted that as his resignation. Ms. Moore encouraged the claimant to speak to EAP and to contact Store Director Chad Seely July 16, 2018, when Mr. Seely returned from vacation to find out his job status.

On July 16, 2018, the claimant contacted Mr. Seely and a meeting was held between the claimant, Mr. Seely and Ms. Moore. The claimant apologized for walking out July 9, 2018, but stated his “mind just wasn’t right and that he has a lot going on in his personal life.” He thanked Ms. Moore for the EAP information and said he had an appointment that afternoon. Mr. Seely explained to the claimant that after speaking to Mr. Fenton and considering the way the claimant walked off the job the employer could not allow him to return to his job. The claimant apologized and asked what he could do to save his job. Mr. Seely offered the claimant a position on the night stock crew at the same rate of pay. He told the claimant to take the day to consider the offer and make a decision on whether that position would work for him. The claimant was “very appreciative” and said he would make it work and that he “doesn’t have a choice.” Mr. Seely again told the claimant to take the day to decide and contact him the following morning with his answer. The employer did not hear from the claimant again and determined the claimant voluntarily quit his job.

#### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment without good cause attributable to the employer.

Iowa Code section 96.5(1) 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.

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. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2.

The claimant walked off the job July 9, 2018. He did not ask permission to leave or tell anyone he was not coming back until Mr. Fenton texted him over one hour after he left for a 30 minute lunch break and the claimant’s response was he would not be back and it was too much for him. He thanked Mr. Fenton for all he had done for him and said, “I just can’t be here anymore.” While the claimant now says he just meant he would not be back July 9, 2018, his testimony is not persuasive. His comments demonstrate that he made the decision to not return to his job with the employer July 9, 2018. The employer then made another job offer to the claimant

July 16, 2018, and told him to let Mr. Seely know the morning of July 17, 2018, but the claimant chose not to contact the employer again. His actions show he had the intention to quit his job.

Under these circumstances, the administrative law judge must conclude the claimant voluntarily quit his job by walking off the job July 9, 2018. Therefore, benefits must be denied.

**DECISION:**

The September 11, 2018, reference 01, 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.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

je/rvs