

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

WILFRIED AHOKPE
Claimant

THE HON COMPANY
Employer

APPEAL 18A-UI-09817-CL-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 01/28/18
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

The claimant filed an appeal from the September 24, 2018, (reference 06) unemployment insurance decision that denied benefits based upon a separation from employment. The parties were properly notified about the hearing. A telephone hearing was held on October 9, 2018. Claimant participated personally through a French Interpreter with CTS Language Link. Employer participated through member and community relations generalist Lindsey Petersen and was represented by John O'Fallon. Employer's Exhibit 1 was received.

ISSUE:

Did claimant voluntarily leave the employment with good cause attributable to the 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: Claimant began working for employer on October 2, 2017. Claimant last worked as a full-time machine operator. Claimant was separated from employment on September 4, 2018, when he resigned.

On August 29, 2018, claimant's supervisor assigned him to temporarily cover another position. Claimant is a grade one operator. Claimant objected to the temporary assignment because he believed it was a grade two operator position. Grade two operators are paid \$1.50 more per hour than grade one operators. Claimant stated he would not work in the temporary position unless paperwork was completed classifying him as a grade two operator. Claimant became upset and the parties mutually agreed claimant should go home from work early.

Claimant was next assigned to work on Tuesday, September 4, 2018, at 2:00 p.m. Claimant did not appear for work or report that he would be absent. Claimant's supervisor spoke with claimant on the phone at approximately 3:30 p.m. Claimant explained he would not come into work unless the paperwork was completed classifying him as a grade two operator. Claimant stated that he felt like resigning and had given his badge and other related items to a co-worker

to return to employer. Claimant's supervisor stated that if claimant returned to work he would attempt to start the process of getting claimant classified as a grade two operator. Claimant stated he would return to work the next day. Claimant never returned nor had any further contact with employer.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was 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.

Iowa Admin. Code r. 871-24.25(27) provides:

Voluntary quit without good cause. 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. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(27) The claimant left rather than perform the assigned work as instructed.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973).

In this case, claimant resigned rather than operate the machine to which he was temporarily assigned. Although claimant may have had a legitimate complaint about his rate of pay, the assignment was temporary and claimant did not return to work to give his supervisor a chance to work on the process of upgrading him to a level two operator position. A reasonable person in the same situation would not have resigned. Therefore, claimant failed to establish he resigned for a good cause reason attributable to employer.

DECISION:

The September 24, 2018, (reference 06) unemployment insurance decision is affirmed. Claimant voluntarily left the 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.

Christine A. Louis
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

Decision Dated and Mailed

cal/scn