

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

EDDIE HILL
Claimant

FAMILY DOLLAR STORES OF IOWA LLC
Employer

APPEAL 21R-UI-11150-LJ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 05/10/20
Claimant: Appellant (2R)

Iowa Code § 96.5(2)a – Discharge from Employment
Iowa Code § 96.5(1) – Voluntary Quit from Employment

STATEMENT OF THE CASE:

On December 14, 2020, the claimant, Eddie Hill, filed an appeal from the December 10, 2020 (reference 02) unemployment insurance decision that denied benefits based upon a determination that claimant voluntarily quit his employment with Family Dollar Stores of Iowa, L.L.C. The parties were properly notified of the hearing. A telephonic hearing was held at 8:00 a.m. on Wednesday, July 7, 2021. The claimant, Eddie Hill, participated. The employer, Family Dollar Stores of Iowa, L.L.C., did not register a telephone number and did not participate in the hearing. Claimant's Exhibits 1, 2, and 3 were received and admitted into the record. The administrative law judge now takes official notice of the administrative record.

ISSUE:

Did the claimant quit the employment without good cause attributable to the employer or was the claimant discharged for reasons related to job misconduct sufficient to warrant a denial of unemployment benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time, most recently as a cashier, from approximately December 2019 until August 7, 2020, when he was suspended and subsequently discharged.

On claimant's final day of work, manager Theresa became upset because it was time for her to leave but another manager did not show up to relieve her. Theresa did not want to sign off on the slips for counting the cash register drawers. She then became angry, started yelling, and then tried to attack the claimant. Claimant adamantly denies touching Theresa. At some point, the police were called, and Theresa was taken to the hospital. Claimant worked the remainder of his shift and then he went home.

On August 7, manager Sonya sent claimant a text message letting him know that he was not allowed back at the store until management "figures out what is going on." (Claimant Exhibit 1) Several days later, claimant contacted the employer to find out when he could return to work,

and he was notified that he was discharged. Claimant had no prior warnings for fighting at work, and he was not aware his job was in any jeopardy.

Following claimant's discharge from employment, he was arrested and charged with assaulting Theresa. These charges were ultimately dropped.

Claimant's unemployment insurance benefit records reflect claimant opened his claim effective May 10, 2020. Claimant filed weekly claims each week from the week ending May 16, 2020, through the week ending August 8, 2020. He did not report receiving any wages any of these weeks, despite testifying that he was working full-time hours at that time.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant did not quit but was discharged from employment for no disqualifying reason. Benefits are allowed, provided he 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.

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 the employment. *Irving v. Empl. App. Bd.*, 15-0104, 2016 WL 3125854, (Iowa June 3, 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). It 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). Where there is no expressed intention or act to sever the relationship, the case must be analyzed as a discharge from employment. *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992).

Here, there is no evidence in the record that claimant voluntarily left his employment. Therefore, this case will be analyzed as a discharge from employment. The employer bears the burden of establishing disqualifying, job-related misconduct.

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 Admin. Code r. 871-24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not to be deemed misconduct within the meaning of the statute.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Huntoon v. Iowa Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

Iowa Admin. Code r. 871-24.32(4) provides:

(4) Report required. The claimant's statement and the employer's statement must give detailed facts as to the specific reason for the claimant's discharge. Allegations of misconduct or dishonesty without additional evidence shall not be sufficient to result in disqualification. If the employer is unwilling to furnish available evidence to corroborate the allegation, misconduct cannot be established. In cases where a suspension or disciplinary layoff exists, the claimant is considered as discharged, and the issue of misconduct shall be resolved.

Iowa Admin. Code r. 871-24.32(9) provides:

(9) Suspension or disciplinary layoff. Whenever a claim is filed and the reason for the claimant's unemployment is the result of a disciplinary layoff or suspension imposed by the employer, the claimant is considered as discharged, and the issue of misconduct must be resolved. Alleged misconduct or dishonesty without corroboration is not sufficient to result in disqualification.

In an at-will employment environment an employer may discharge an employee for any number of reasons or no reason at all, provided the discharge is not contrary to public policy. However, if the employer fails to meet its burden of proof to establish job related misconduct as the reason for the separation, it incurs potential liability for unemployment insurance benefits related to that separation. Here, the employer did not appear for the hearing to present any evidence in support of the decision to discharge claimant from employment. Claimant denies assaulting his manager, and there is nothing in the record to indicate claimant was discharged for any disqualifying reason. Therefore, the administrative law judge finds claimant was discharged from employment for no disqualifying reason, and benefits are allowed.

The issue of whether claimant failed to properly report wages when filing weekly claims for benefits is remanded to the Benefits Bureau for investigation.

DECISION:

The December 10, 2020 (reference 02) unemployment insurance decision is reversed. Claimant did not quit but was discharged from employment for no disqualifying reason. Benefits are allowed, provided he is otherwise eligible. Any benefits claimed and withheld on this basis shall be paid.

REMAND:

The issue of whether claimant failed to properly report wages when filing weekly claims for benefits is remanded to the Benefits Bureau for further investigation.



Elizabeth A. Johnson
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July 16, 2021
Decision Dated and Mailed

lj/scn