

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

TYRONE L SHIVERS
Claimant

AMERICAN PACKAGING CORP
Employer

APPEAL NO. 19A-UI-05669-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 06/23/19
Claimant: Appellant (2)

Iowa Code § 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated July 11, 2019, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on August 8, 2019. Claimant participated and was represented by attorney Jim Duff. Employer failed to respond to the hearing notice and did not participate.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: As claimant was the only witness in the hearing, all findings of fact are derived from claimant's testimony. Claimant last worked for employer during the end of May, 2019. Claimant voluntarily quit his job on June 10, 2019 after he was not paid when employer asked claimant not to come to work for the previous couple of weeks. Claimant had not been told a reason for an unpaid suspension.

In November, 2017 claimant reported to employer racist and inflammatory comments the machine operator he'd worked under had made about claimant. Employer organized a meeting with the two parties, but did nothing after the meeting to address concerns, and the co-worker continued to make insulting and racist comments to claimant and about claimant.

In early 2018, claimant slipped and fell on the ice coming into work. His back injury was immediately told to his supervisor, but no worker's compensation claim was filed for many months. After the injury did not get better, claimant finally went to his own doctor. The doctor issued a work restriction that kept claimant off of his feet. In December, 2018 claimant was put on light duty work that was seated. Claimant stated that the chair he was given and the table he worked was not conducive to his back's healing. He continued to have ongoing pains. His doctor requested that ergonomic improvements be made for claimant, but employer did not honor the doctor's request.

In April of 2019 while claimant was working light duty, he fell off of his chair and reinjured his back. Soon thereafter the employer's worker's compensation doctor released claimant to return to work without restrictions. Claimant's private doctor sent employer a separate document keeping restrictions in place. Soon thereafter, employer asked claimant to stay home from work. After claimant was not paid for two weeks when he was asked to stay home, claimant quit.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 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.

The administrative law judge holds that the evidence has established that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because employer did not pay claimant after employer had requested claimant to stay home from work without suspending him for a particular action.

Ordinarily "good cause" is derived from the facts of each case keeping in mind the public policy stated in Iowa Code Section 96.2. *O'Brien v. EAB* 494 N.W.2d 660, 662 (Iowa 1993) (citing *Wiese v. IA Dept. of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986)). "The term encompasses real circumstances, adequate excuses that will bear the test of reason, just grounds for the action, and always the test of good faith." *Wiese v. IA Dept. of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986). "Common sense and prudence must be exercised in evaluating all of the circumstances that led to an employee's quit in order to attribute the cause for the termination." *Id.* In this matter, claimant had ongoing difficulties with employer. Employer did not address claimant's concerns of racist comments and actions from a co-worker. Then, when claimant was injured at work, employer did not act within work restrictions claimant's doctor had placed on him. Finally, employer sent claimant home for unknown reasons and did not pay claimant. Combined, these matters constitute good cause to quit.

DECISION:

The decision of the representative dated July 11, 2019, reference 01, is reversed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed

bab/scn