

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JAMES E MAGEE
Claimant

JACOBSON WAREHOUSE CO INC
Employer

APPEAL 21A-UI-16156-DZ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 05/02/21
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

James E Magee, the appellant/appellant filed an appeal from the July 16, 2021 (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on September 13, 2021. Mr. Magee participated and testified. Anthony Jenkins, one of Mr. Magee's former co-workers, testified on Mr. Magee's behalf. The employer did not register for the hearing and did not participate. Claimant's Exhibits A through C were admitted as evidence.

ISSUE:

Did Mr. Magee voluntary quit without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Magee began working for the employer on November 24, 2019. He worked as a full-time fork lift operator at one of the employer's Iowa plant. He was separated from employment on March 26, 2021.

In January 2021, the employer announced that the plant at which Mr. Magee worked would close in May 2021. The employer told employees to let the plant manager know if they wanted to transfer to a different location. Mr. Magee requested to be transferred to the Las Vegas, Nevada plant.

Mr. Magee had an interview with the Las Vegas plant manager on February 26, 2021. The Las Vegas plant manager told Mr. Magee that they needed someone to start at the beginning of April 2021. Mr. Magee said that would work for him, but he would need to sell his house. At the end of the conversation, the Las Vegas plant manager told Mr. Magee that the plant manager would talk with his own supervisor and be in touch with the human resources person at the Iowa plant where Mr. Magee worked.

Mr. Magee assumed the interview as a formality, and he assumed he had the job at the Las Vegas plant so he put his house on the market. Mr. Magee made these assumptions because he thought other co-workers who requested to transfer did not have to do interviews. For example, Mr. Jenkins requested a transfer to a different plant in Iowa. Mr. Jenkins did a one-half day on-site visit to the new plant, but he did not do a telephone interview. After the visit, the employer told Mr. Jenkins his start date at the new plant.

In early March, Mr. Magee sent the Iowa plant human resources person an email asking if they had heard from the Las Vegas plant manager. The Iowa plant human resources person said they had not and that they would let Mr. Magee know as soon as they do.

Mr. Magee's house sold and he had an expected closing date of April 1. On, or about, March 15, Mr. Magee gave the Iowa plant a two week notice of his intention to quit on March 26, 2021. Mr. Magee quit on March 26 and moved to Las Vegas on April 3.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes Mr. Magee's separation from employment was without good cause attributable to the employer.

Iowa Code section 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 Admin. Code r. 871-24.25 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:

(2) The claimant moved to a different locality.

(3) The claimant left to seek other employment but did not secure employment.

(37) The claimant will be considered to have left employment voluntarily when such claimant gave the employer notice of an intention to resign and the employer accepted such resignation. This rule shall also apply to the claimant who was employed by an educational institution who has declined or refused to accept a new contract or reasonable assurance of work for a successive academic term or year and the offer of work was within the purview of the individual's training and experience.

The 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). 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).

In this case, Mr. Magee assumed he had the job at the Las Vegas plant so he gave the Iowa plant a two-week notice and quit. However, the Las Vegas plant manager did not offer Mr. Magee a job. The manager said he would be in touch with the Iowa human resources person. That never happened. Mr. Magee's leaving was not for a good-cause reason attributable to the employer according to Iowa law. Benefits are denied.

DECISION:

The July 16, 2021, (reference 01) unemployment insurance decision is affirmed. Mr. Magee 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.



Daniel Zeno
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September 17, 2021
Decision Dated and Mailed

dz/ol