

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CLIFFORD J LARRISON
Claimant

APPEAL 21A-UI-14227-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

BRIDGESTONE AMERICAS TIRE
Employer

**OC: 03/21/21
Claimant: Appellant (2R)**

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

STATEMENT OF THE CASE:

On June 18, 2021, Clifford Larrison (claimant/appellant) filed a timely appeal from the Iowa Workforce Development decision dated June 9, 2021 (reference 01) that denied benefits based on a finding claimant voluntarily left employment on November 28, 2020 without good cause attributable to employer.

A telephone hearing was held on August 17, 2021. The parties were properly notified of the hearing. The claimant participated personally. Bridgestone Americas Tire (employer/respondent) did not register a number for the hearing or participate.

Official notice was taken of the administrative record.

ISSUE(S):

- I. Was the separation from employment a layoff, discharge for misconduct, or voluntary quit without good cause?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant worked for employer full-time as a wire winder. Claimant's first day of employment was August 5, 2019. The last day claimant worked on the job was around the end of March or early April 2021. Claimant resigned at that time. Claimant resigned because he was being assigned to operate a machine without proper training, supervision, or certification. The machine would frequently break and maintenance crew would direct him to fix it. Claimant did not believe it was safe for him to operate the machine in those circumstances. He raised these concerns with his supervisor, his union rep, and human resources but no action was taken.

The administrative record shows claimant earned wages in the third and fourth quarters of 2020 totaling \$13,329.00. Claimant filed a weekly claim each week from the benefit week ending July 4, 2020 and continuing to present. However, he reported earning only a fraction of that. He

reported earning \$774.00 in the weeks ending July 11 and July 18, 2020. He reported no wages earned in any of the other weeks filed.

REASONING AND CONCLUSIONS OF LAW:

For the reasons set forth below, the decision dated June 9, 2021 (reference 01) that denied benefits based on a finding claimant voluntarily left employment on November 28, 2020 without good cause attributable to employer is REVERSED.

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. 871-24.26 provides in relevant part:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(2) The claimant left due to unsafe working conditions.

(4) The claimant left due to intolerable or detrimental working conditions.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). The employer has the burden of proving that a claimant's departure from employment was voluntary. *Irving v. Emp't Appeal Bd.*, 883 N.W.2d 179 (Iowa 2016). "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". *Id.* (citing *Cook v. Iowa Dept. of Job Service*, 299 N.W.2d 698, 701 (Iowa 1980)).

"Good cause" for leaving employment must be that which is reasonable to the average person, not to the overly sensitive individual or the claimant in particular. *Uniweld Products v. Industrial Relations Commission*, 277 S.2d 827 (Florida App. 1973). While a notice of intent to quit is not required to obtain unemployment benefits where the claimant quits due to intolerable or detrimental working conditions, the case for good cause is stronger where the employee complains, asks for correction or accommodation, and employer fails to respond. *Hy-Vee Inc. v. EAB*, 710 N.W.2d 1 (Iowa 2005).

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. 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). 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).

The administrative law judge finds claimant has carried his burden of proving the voluntary leaving was for good cause attributable to employer. The working conditions were so unsafe, intolerable, or detrimental that a reasonable person would find resignation to be justified, particularly where claimant had raised these concerns with employer before resigning. The separation from employment was not disqualifying and claimant is therefore eligible for benefits, provided he is not otherwise ineligible or disqualified.

DECISION:

The decision dated June 9, 2021 (reference 01) that denied benefits based on a finding claimant voluntarily left employment on November 28, 2020 without good cause attributable to employer is REVERSED. The separation from employment was not disqualifying. Benefits are allowed, provided claimant is not otherwise disqualified or ineligible.

REMAND:

This matter is REMANDED for an investigation as to whether claimant properly reported wages earned during each week filed.



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

August 19, 2021
Decision Dated and Mailed

abd/kmj