

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**ROOSEVELT E STROWDER**  
Claimant

**TMONE LLC**  
Employer

**APPEAL 18A-UI-11918-AW-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 11/11/18**  
**Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quitting  
Iowa Admin r. 871-24.25 – Voluntary Quit Without Good Cause

**STATEMENT OF THE CASE:**

Roosevelt Strowder, Claimant, filed an appeal from the December 7, 2018 (reference 02) unemployment insurance decision that denied benefits because he voluntarily quit work with TMONE, LLC by failing to report to work for three days in a row without notifying his employer. The parties were properly notified of the hearing. A telephone hearing was held on December 28, 2018 at 11:00 a.m. Claimant participated. Employer participated through Ciara Turner, Senior Payroll Administrator. No exhibits were admitted.

**ISSUE:**

Whether claimant's separation was a 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: Claimant was employed full-time as an agent from October 8, 2018 until his employment with TMONE, LLC ended on November 8, 2018. (Turner Testimony)

During the second week of claimant's employment, a coworker used a racial slur in conversation with claimant's supervisor. (Claimant Testimony) Supervisor took no immediate action to discipline the coworker. (Claimant Testimony) Claimant commented that the slur should not be used. (Claimant Testimony) Claimant's supervisor then left the room, returned with his supervisor and escorted the coworker from the office. (Claimant Testimony) Claimant later learned his coworker's employment was terminated that same day. (Claimant Testimony)

On either Monday, November 5, 2018 or Tuesday, November 6, 2018, a coworker used a racial slur in conversation with another coworker. (Claimant Testimony) The agents are telemarketers; audio recordings are made of their calls. (Claimant Testimony) The racial slur was recorded. (Claimant Testimony) Employer heard the slur when reviewing recordings and discharged the employee that same day. (Claimant Testimony)

Towards the end of claimant's shift on Thursday, November 8, 2018, claimant informed a coworker that he was quitting his job. (Claimant Testimony) Claimant did not return to work thereafter. (Turner Testimony) Claimant's reasons for quitting his employment included the use of racial slurs on two occasions and his supervisor's lack of management and use of profanity. (Claimant Testimony) Claimant did not report his concerns to a higher level manager or human

resources. (Claimant Testimony) Claimant testified that he quit his employment because it was a hostile work environment, there was a lack of leadership and he was frustrated. (Claimant Testimony)

There was continuing work available to claimant had he not quit his employment. (Turner Testimony) Claimant's employment was not in jeopardy. (Turner Testimony)

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant voluntarily quit without good cause attributable to employer. Benefits are denied.

Iowa Code § 96.5(1) provides: An individual shall be disqualified for benefits, if the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

A voluntary quitting means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer and requires an intention to terminate the employment. *Wills v. Emp't Appeal Bd.*, 447 N.W. 2d 137, 138 (Iowa 1989). 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); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992). 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).

Iowa Admin. Code r. 871-24.25(37) 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:

(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.

Iowa Admin. Code r. 871-24.26(4) provides:

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:

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

Notice of an intent to quit is not required for intolerable working conditions. IAC r. 871-24.26(4); *Hy-Vee, Inc. v. Emp't Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005).

Where a claimant gives several different reasons for leaving employment, the administrative law judge is required to consider all stated reasons which might have combined to give the claimant good cause to quit in determining whether any of those reasons constituted good cause attributable to the employer. *Taylor v. IDJS*, 362 N.W.2d 534 (Iowa 1985).

Claimant provided several reasons for quitting his employment; and this administrative law judge has considered them all. Claimant was offended by two incidents of coworkers using a racial slur in the workplace. The racial slurs and the fact that claimant had to bring the first incident to employer's attention may be good cause for him quitting; however, it is not attributable to employer. When employer became aware of each incident, it took immediate and appropriate disciplinary action. Claimant also took issue with his supervisor's use of profanity and management style; however, these issues do not rise to the level of intolerable or detrimental working conditions. Claimant has not met his burden of proving that he quit for good cause attributable to the employer. Claimant voluntarily quit his employment without good cause attributable to the employer. Benefits are denied.

**DECISION:**

The December 7, 2018 (reference 02) unemployment insurance decision is affirmed. Benefits are denied until such time as the claimant works in and has been paid wages for insured work equal to ten times claimant's weekly benefit amount.

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Adrienne C. Williamson  
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Decision Dated and Mailed

acw/rvs