

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

RYAN D SILLE
Claimant

APPEAL NO: 13A-UI-00233-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ALLEN LAWN CARE LLC
Employer

OC: 11/25/12
Claimant: Appellant (4/R)

Iowa Code § 96.5(1) – Voluntary Quit

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's January 2, 2013 determination (reference 02) that disqualified him from receiving benefits and held the employer's account exempt from charge because he voluntarily quit this employment for reasons that do not qualify him to receive benefits. The claimant participated in the hearing. Bill Allen, the owner, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge finds the claimant is not qualified to receive benefits.

ISSUE:

Did the claimant voluntarily quit his employment for reasons that qualify him to receive benefits, or did the employer discharge him for reasons constituting work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on July 7, 2012. The claimant worked full time. Drake Allen, the claimant's supervisor, was also the owner's nephew.

During his employment, the owner expressed frustration toward the claimant. In October, when the claimant went back to the shop because he needed more gas, the owner told him this was the reason employees were supposed to fill up in the morning. The owner then kicked over a trash can. The claimant thought the owner was angry at him for coming back to get gas. Whenever the owner got upset or mad, Drake told the claimant to just ignore the owner because after the owner calmed down he would act like nothing had happened. Even though this is what the owner did, the claimant felt the owner disrespected him.

On November 19, the claimant became very upset after the owner reprimanded him for failing to do fall clean up on his property to the owner's satisfaction. Later on November 19, the owner reprimanded the claimant for failing to remove dirt in the corner of the owner's driveway. When the owner took a blower from another employee to show the claimant how to do the job correctly, the claimant felt the owner disrespected him. The claimant was very upset with the owner and called Drake. He told Drake that he had enough of the owner's disrespect and he was going to leave and not come back until owner showed him respect. Since this was the

week of Thanksgiving, Drake told the claimant to take the rest of the week off to cool down and come back to work on Monday, November 26 with a fresh start. The claimant agreed to do this.

The claimant was ill and unable to work on November 26. He called Drake to report he was unable to work. Drake indicated this was not a problem because work was slow and he would call the claimant later that week about work. The claimant did not receive a call from Drake and went to pick up his paycheck on Friday, November 30. When neither the claimant nor Drake could find the claimant's check, Drake called the accountant, the owner's wife. The claimant understood that the owner's wife thought the claimant had quit. Drake told her that the claimant had not quit. After talking to the owner's wife, Drake asked the claimant to come to work on Monday and he would have everything straightened out.

By Monday, the claimant decided he had had enough and instead of working on Monday, December 3, 2012, he brought in his shirts and picked up his check.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer, or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §§ 96.5(1), (2)a. On December 3, the claimant quit his employment even though his supervisor had told him on November 30 that he would have everything straightened out by December 3, 2012. When the claimant quit, he did not know how Drake had resolved the issues. The claimant decided he was no longer going to work for the employer because the employer reprimanded him for his job performance. The claimant considered the reprimands as disrespect. When a claimant quits, he has the burden to establish he quit for reasons that qualify him to receive benefits. Iowa Code § 96.6(2).

The law presumes a claimant quits without good cause when he leaves because he is not satisfied with the work environment, has a personality conflict with a supervisor, or leaves after being reprimanded. 871 IAC 24.25(21), (22), and (28). The evidence establishes the claimant knew the owner was extremely particular about his employees' work performance. The claimant became frustrated on November 19 when he tried to do his work perfectly and still the owner found something wrong with it. The claimant's assertion that the employer was trying to find a way to discharge him because Drake did not call him on Wednesday, November 28, about work is without merit. If the claimant was no longer sick and wanted to work, he could have called Drake, but did not. Also, Drake was working with the claimant in an attempt to find his November 30 paycheck and told the claimant he would get issues straightened out by Monday, December 3. Instead of reporting to work on December 3, the claimant quit without knowing what Drake had resolved. Since Drake had previously given the claimant correct information about the employer, there is no reason to doubt that Drake had not resolved issues by December 3.

The claimant established personal reasons for quitting, but his reasons for quitting do not qualify him to receive benefits. As of December 2, 2012, the claimant is not qualified to receive benefits. Since the claimant was ill on November 26, the issue of when the claimant was able to work the week of November 25 will be remanded to the Claims Section to determine.

The employer is not one of the claimant's base period employers. During the claimant's current benefit year, the employer's account will not be charged.

DECISION:

The representative's January 2, 2013 determination (reference 02) is modified in the claimant's favor. The claimant voluntarily quit his employment without good cause on December 3, not November 19, 2012. Therefore, as of December 2, 2012, the claimant is disqualified from receiving unemployment insurance benefits. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. During the claimant's current benefit year, the employer's account will not be charged.

An issue of whether the claimant was able to and available for work the week of November 25, 2012, is **Remanded** to the Claims Section to determine.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css