

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

GARY L BUNDY
Claimant

MCKEE AUTO CENTER INC
Employer

APPEAL 17A-UI-03112-NM
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 02/26/17
Claimant: Appellant (5)

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

STATEMENT OF THE CASE:

The claimant filed an appeal from the March 15, 2017, (reference 01) unemployment insurance decision that denied benefits based upon his discharge for dishonesty in connection with his work. The parties were properly notified of the hearing. An in-person hearing was held on April 18, 2017 in Des Moines, Iowa. The claimant participated and testified. Dawn Bundy was also present and testified on behalf of the claimant. The employer participated through General Manager John Haacma, Office Manager Debbie McKee, President Anthony McKee, and Service Manager Mark Edgington. Employer's Exhibit 1 through 4 and claimant's Exhibits A through J were received into evidence.

ISSUE:

Did claimant voluntarily leave the employment with good cause attributable to the employer or did employer discharge the claimant for reasons related to job misconduct sufficient to warrant a denial of benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time as a mechanic from September 1, 2015, until this employment ended on February 28, 2017, when he voluntarily quit.

On February 28, 2017, the claimant was scheduled to be at work at 8:00 a.m. On February 24, 2017, claimant was suspended from work, following an interaction with his supervisor, with instructions to return to work on February 28, 2017. Claimant did not come in to work until 1:00 p.m. Claimant testified this was because he had previously scheduled time off for appointments, though the employer did not recall this being the case. Both parties testified that when claimant did come in he was not dressed in his work clothes and had brought a large trailer. According to claimant he had his work clothes in his truck and only brought in trailer in case he needed to take his tools.

Claimant was hoping to speak with Mr. Haacma about issues he was having with the negative way he was treated by Mr. Edgington, but instead was approached by Mr. McKee. Mr. McKee asked claimant if he had been contacted by a police officer. Claimant, confused, said he had not and asked why. Mr. McKee informed claimant he had reported him to the police, after learning that, on February 18, claimant had put new tires he had ordered from the employer on his vehicle without first paying for them. According to claimant he was given permission to put the tires on by Mr. Haacma and it was normal for such purchases to be deducted from pay checks. Mr. Haacma testified he was not aware that claimant had not yet paid for the tires. A discussion about this incident ensued and claimant asked Mr. McKee if he was being terminated. Mr. McKee responded he was not being terminated, that he just wanted claimant to pay for the tires and return to work. At some point during the discussion it was also brought to claimant's attention that he was late on his payments for two vehicles he had purchased from the employer and he was given a Notice of Right to Cure for each of the vehicles. Further discussion continued and claimant eventually indicated that he was taking his tools and quitting.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from the 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:

(21) The claimant left because of dissatisfaction with the work environment.

...

(22) The claimant left because of a personality conflict with the supervisor.

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). Generally, when an individual mistakenly believes they are discharged from employment, but was not told so by the employer, and they discontinue reporting for work, the separation is considered a quit without good cause attributable to the employer. *LaGrange v. Iowa Dep't of Job Serv.*, (No. 4-209/83-1081, Iowa Ct. App. filed June 26, 1984).

Here, claimant was not discharged, but voluntarily quit. Claimant specifically asked Mr. McKee if he was being discharged and was clearly told he was not. Nevertheless, claimant chose to end the employment relationship. Claimant presented credible testimony that he was treated in a manner he did not appreciate by Mr. Edgington. However, claimant failed to show that Mr. Edgington's behavior was so severe that it created an intolerable work environment.

Another factor leading to claimant's decision to quit was his business relationship with the employer. The claimant and the employer were not only in an employment relationship, but also in a relationship as a customer and business. Claimant provided credible testimony that he believed he had been given permission to put new tires on his vehicle. Conversely, the employer provided credible testimony that the claimant was in possession of property he had ordered, but not yet paid for. Due to this, and other circumstances, the customer/business relationship deteriorated very quickly and this affected the employment relationship. Certainly, both parties could have better handled the situation. While claimant's leaving may have been based upon good personal reasons, and while it is understandable that he would not want to continue working in an environment where the business relationship had deteriorated, claimant's quitting was not for a good-cause reason attributable to the employer according to Iowa law. Benefits are denied.

DECISION:

The March 15, 2017, (reference 01) unemployment insurance decision is modified with no change in effect. The claimant voluntarily left his employment without good cause attributable to the employer. Benefits are withheld until such time as he is deemed eligible.

Nicole Merrill
Administrative Law Judge

Decision Dated and Mailed

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