

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JEFF L JONDAL
Claimant

PRESTAGE FOODS OF IOWA LLC
Employer

APPEAL NO. 22R-UI-01940-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 04/18/21
Claimant: Appellant (1)**

Iowa Code § 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated August 10, 2021, reference 01, which held claimant ineligible for unemployment insurance benefits. Claimant did not appear for the initial hearing in a timely manner and the appeal was dismissed. Claimant appealed the dismissal to the EAB, and the Board remanded the matter back to the ALJ for further hearing. After due notice, a hearing was scheduled for and held on February 14, 2022. Claimant participated. Employer failed to call in for the hearing and did not participate. Claimant's Exhibit A was admitted into evidence.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on or around November 25, 2020. Claimant left work in the middle of his shift on that date as he was distraught over how he believed a coworker was treating him, and further distraught as to a lack of action on the part of employer. Claimant had no contact with employer for over a month after leaving in the middle of his shift although he was scheduled to be working.

Claimant worked as a production team member for employer. He stated that at some time in November 2020, a coworker made a derogatory move to him when the coworker, Eric, crafted a piece of meat in the shape of a vagina and held that to his scrotum and pointed to the claimant indicating that the claimant had a vagina. This distraught claimant. Claimant stated that at some time he went to human resources and gave this complaint. Claimant said he was told that this complaint was not brought forth in a timely manner, so there wasn't anything that they could do.

Claimant stated that in addition to his concern from a coworker, he was also concerned that employer had a camera and an antennae above his work station. Claimant stated that he

believed this unit made him shakey. He believed that employer might have been sending radio waves through him.

Claimant said that after human resources didn't do anything with his previous complaint, he went up to the coworker. He asked Eric why he said that claimant had a pussy. Claimant said that Eric responded, "Cause you do."

Claimant then went back to human resources to tell of his most recent exchange. As employer had no immediate action that was taken, claimant became very distraught and decided he needed to leave work in the middle of his shift. Claimant said that employer said he could leave if he needed to clear his head.

Claimant had no contact with employer for the next month. Claimant attempted to be in contact with employer on or around December 23, 2021. Claimant no longer had employment as claimant had never gotten himself removed from the schedule and had many more than three days of no call / no show for work.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because he was distraught with how employer addressed his allegations of harassment from a coworker.

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. 871-24.25(4) 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:

(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

Claimant addressed employer with concerns of a coworker putting a piece of meat fashioned in the shape of a vagina. Employer said his complaint wasn't brought forth timely. Claimant then attempted to address matters himself with the coworker. The coworker had a smart-aleck comeback. Claimant then went to employer again, and before employer could take any action,

claimant chose to leave work and not try to have contact for a month, although he was scheduled to work during that time period.

It is noted that claimant mentioned a conspiracy theory as a part of his complaint – that employer was sending radio waves through claimant by using an antennae located over claimant's work space. There was no proof offered to back this claim, and although it may have created a reason for claimant's quit, it will not be considered absent further proof to back the allegation.

Claimant was a no call / no show for work for three consecutive days. This leads to a determination of voluntary quit. Potentially, this quit may have been determined to be for good cause had claimant waited for employer to act on his most recent complaint. Claimant did not do so. As claimant didn't give employer an opportunity to act on his most recent complaint, and instead chose to effectively quit, his quit is not seen for good cause attributable to employer.

DECISION:

The decision of the representative dated August 10, 2021, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.



Blair A. Bennett
Administrative Law Judge

March 3, 2022
Decision Dated and Mailed

bab/mh