

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**DAVID VAZQUEZ**

Claimant

**APPEAL 17A-UI-09156-NM-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ABM INDUSTRY GROUPS LLC**

Employer

**OC: 08/13/17**

**Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quitting

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the August 30, 2017, (reference 01) unemployment insurance decision that denied benefits based upon his voluntary quit. The parties were properly notified of the hearing. A telephone hearing was held on September 25, 2017. The claimant participated and testified. The employer participated through Hearing Representative Sandra Linsin, Senior Human Resource Business Partner Christine Wetzler, and Senior Branch Manager Randy Glunn.

**ISSUE:**

Did claimant voluntarily quit the employment with good cause attributable to employer?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time as a senior district manager from April 21, 1991, until this employment ended on August 9, 2017, when he voluntarily quit.

On August 8, 2017, claimant was part of a conference call with 14 other managers and the Director of Operations, GT Gibson. At one point in the call claimant thought he overheard Gibson mention that as soon as another employee got up to speed, he would be taking over claimant's accounts. Claimant explained he had been working very demanding hours and Gibson had been criticizing his performance recently. Claimant determined, if he was going to be replaced anyway, he would just resign. The following day claimant submitted his resignation. Claimant told his immediate supervisor, Glunn, why he was resigning. Glunn indicated he did not hear the comment. Glunn later spoke to Gibson, who denied making the comment or that he had any plans to separate claimant from employment. Wetzler similarly testified that she would generally be made aware if an employee was going to be separated, and was unaware of any plans to end claimant's employment. Glunn testified work would have been available to claimant had he not resigned.

## 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:

(33) The claimant left because such claimant felt that the job performance was not to the satisfaction of the employer; provided, the employer had not requested the claimant to leave and continued work was available.

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).

The claimant resigned after he believed he overheard a supervisor indicate that another employee was going to be taking over his accounts. No one at the employer actually told claimant he was going to be separated from employment and the employer testified, at the time of claimant's resignation, there were no plans to separate him from employment. While claimant's leaving may have been based upon good personal reasons, it was not for a good-cause reason attributable to the employer according to Iowa law. Benefits are denied.

## DECISION:

The August 30, 2017, (reference 01) unemployment insurance decision is affirmed. The claimant voluntarily left his employment without good cause attributable to the employer.

Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Nicole Merrill  
Administrative Law Judge

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Decision Dated and Mailed

nm/rvs