

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

STEVEN M KENNEY
Claimant

APPEAL NO: 18A-UI-05888-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

BW GAS & CONVENIENCE RETAIL LLC
Employer

**OC: 04/22/18
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the May 17, 2018, reference 01, decision that denied benefits. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on June 13, 2018. The claimant participated in the hearing. Rick Winter, Vice-President and Director of Human Resources and Petra Sanders District Manager, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant voluntarily left his employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a part-time sales associate for BW Gas & Convenience Retail, LLC from December 17, 2016 to April 16, 2018. He voluntarily left his employment rather than sign a warning he felt was unfair.

On April 14, 2018, the claimant refused to run his till as instructed by his manager and failed to ring up \$15.00 worth of lottery tickets. On April 16, 2017, the employer issued the claimant a final written warning for the situations that occurred April 14, 2018, and included language regarding a recent absence the claimant had where he had his girlfriend call in for him because he was in the emergency room and provided a doctor's note to the employer. The claimant asked to see the video showing he did not ring up the lottery tickets but the employer denied his request. He also objected to his absence being included on the warning. The claimant stated the warning was "bullshit," refused to sign it and walked off the job.

The claimant received written warnings previously for cash drawer shortages December 3, 2017, March 16, 2018, and March 27, 2018.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment without good cause attributable to the employer.

Iowa Code § 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.

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. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). "Good cause" for leaving employment must be that which is reasonable to the average person, not to the overly sensitive individual or the claimant in particular. *Uniweld Products v. Industrial Relations Commission*, 277 So.2d 827 (Florida App. 1973). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2.

While the claimant's frustration about the warning may have been understandable, he had other options besides walking off the job. He could have chosen to ask to speak to the district manager or human resources or signed the warning but indicated he did not agree with the warning. Instead, the claimant called the warning bullshit and walked out.

Under these circumstances, the administrative law judge must conclude the claimant has not demonstrated that his leaving was for unlawful, intolerable, or detrimental working conditions as those terms are defined by Iowa law. Therefore, benefits must be denied.

DECISION:

The May 17, 2018, reference 01, 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.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/scn