IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS

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

JAY J HESS
Claimant

PRIES ENTERPRISES INC
Employer

APPEAL NO. 19A-UI-06351-JTT

ADMINISTRATIVE LAW JUDGE DECISION

OC: 07/14/19
Claimant: Appellant (2)

Iowa Code Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Jay Hess filed a timely appeal from the August 5, 2019, reference 01, decision that disqualified him for unemployment insurance benefits and that relieved the employer's account of liability for benefits, based on the deputy's conclusion that Mr. Hess voluntarily quit on July 14, 2019 without good cause attributable to the employer. After due notice was issued, a hearing was held on September 3, 2019. Mr. Hess participated and presented additional testimony through Mary Hess. Angela Helmrichs represented the employer. The hearing in this matter was consolidated with the hearing in Appeal Number 19A-UI-06332-JTT, concerning claimant Mary Hess and the same employer. Exhibits 1 through 8 and A were received into evidence.

ISSUE:

Whether Mr. Hess' voluntary quit was for good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Pries Enterprises, Inc., manufactures extruded aluminum parts in Independence, Iowa. Jay Hess was employed by Pries Enterprises as a full-time packer and fork lift operator from 2017 until July 14, 2019, when he voluntarily quit due to the hot work environment. Mr. Hess is around 60 years old. Mr. Hess performed physically taxing work. The work involved moving extruded aluminum pieces. Mr. Hess' wife, Mary Hess, also worked for the employer. They were assigned to the third shift. The third shift frequently operated short-staffed. The core work hours were 10:00 p.m. to 6:00 a.m. The third-shift workers were required to stay up to two hours later until the shift workers met the production quota. This happened one to three times per week. The regular work week began on Monday evening and concluded on Saturday morning. The employer required Saturday overnight shift as needed. This was a regular occurrence during the last few months of the employment. Mr. and Mrs. Hess received a 10-minute break at midnight. During breaks, they could go to the air conditioned break room or go outside. Mr. and Mrs. Hess would receive a second 10-minute break at 2:00 a.m. They would receive a 20-minute meal break at 4:00 a.m. When they worked a 10-hour shift, they were supposed to receive another 10-minute break, but that did not happen consistently. At the daily meeting at the start of the shift, the supervisor regularly told employees they needed to work faster.

Due to the aluminum extrusion manufacturing process, the employer does not air condition the production area where Mr. and Mrs. Hess performed their work. Ovens at one end of the production area could get as hot as 1,500 degrees Fahrenheit. Ovens at the other end of the production area could get as hot as 200 degrees. The employer was aware that working conditions for its production employees could become intolerable due to an ambient air temperature as high as 105 degrees Fahrenheit. The employer was aware that the working conditions became especially challenging for employees during the hottest weeks of the summer. During these times when the outside temperature was as unbearable as the temperature in the production area, the employer allowed employees to be absent without incurring discipline so long as the employee provided a medical excuse for the absence. In other words, an employee adversely affected by the heat had to incur the expense of a medical appointment in order to avoid discipline for the absence.

Mr. and Mrs. Hess last performed work for the employer on the shift that started on the evening of Saturday, July 13 and that ended on the morning of Sunday, July 14, 2019. During the shift, both felt sickened by the extreme heat of the work environment. Both elected not to return for further shifts. On the morning of July 16, 2019, Angela Helmrichs, Human Resources and Safety Manager, called the Hess home and spoke with Mr. and Mrs. Hess individually. Mr. and Mrs. Hess each told Ms. Helmrichs they were not reporting to work because of being sickened by the heat. Ms. Helmrichs reminded each of the policy that allowed them to be absent without discipline due to the heat if they provided a medical excuse. Mr. and Mrs. Hess each asserted their belief that the employer would not accept a medical excuse for a heat related absence. Ms. Helmrichs mentioned to Ms. Hess that the employer had installed a new ice-making machine and that the employer planned to have a snow cone stand available at the start of the third-shift. However, neither Mr. Hess nor Mrs. Hess returned for further shifts. After Mr. and Mrs. Hess missed additional shifts on July 16 and 17, 2019, Ms. Helmrichs concluded the employments terminated.

Mr. and Mrs. Hess each considered sundry earlier safety and security issues in the workplace when making the decision to leave the employment.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5(1) provides:

> An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:
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> 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 requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See *Local Lodge #1426 v. Wilson Trailer,* 289 N.W.2d 698, 612 (Iowa 1980) and *Peck v. EAB*, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See Iowa Administrative Code rule 871-24.26(4). The test is whether a reasonable person would have quit under the circumstances. See *Aalbers v. Iowa Department of Job Service*, 431 N.W.2d 330 (Iowa 1988) and *O'Brien v. Employment Appeal Bd.*, 494 N.W.2d 660 (1993). Aside from quits based on medical reasons, prior notification of the employer before a resignation for intolerable or detrimental working conditions is not required. See *Hy-Vee v. EAB*, 710 N.W.2d 213 (Iowa 2005).

Quits due to unsafe working conditions are deemed to be for good cause attributable to the employment. See Iowa Administrative Code rule 871-24.26(4).

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

The weight of the evidence in the record establishes a voluntary quit for good cause attributable to the employer. The extreme heat of the work environment, coupled with the extreme heat outdoors, the physically taxing work, and the long hours, made the working conditions intolerable, detrimental and unsafe. The employer unreasonably required employees adversely affected by the extreme heat to incur the trouble and expense of securing a medical excuse to avoid discipline in connection with absences due to the extreme heat. The working conditions would and did prompt reasonable people to leave the employment. Mr. Hess is eligible for benefits, provided he meets all other eligibility requirements. The employer's account may be charged for benefits.

DECISION:

The August 5, 2019, reference 01, decision is reversed. The claimant voluntarily quit the employment on August 14, 2019 for good cause attributable to the employer. The claimant is eligible for benefits, provided he is otherwise eligible. The employer's account may be charged for benefits.

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James E. Timberland
Administrative Law Judge

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Decision Dated and Mailed

jet/scn