

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MULUEMEBET S DEGEFA

Claimant

APPEAL 21R-UI-02840-JC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

SEABOARD TRIUMPH FOODS LLC

Employer

OC: 05/03/20

Claimant: Appellant (2)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant/appellant Muluembet S. Degefa, filed an appeal from the September 10, 2020 (reference 01) Iowa Workforce Development (“IWD”) unemployment insurance decision that denied benefits. Notice of the hearing was mailed to the claimant’s last known address of record for a telephone hearing to be held at 2:00 p.m. on November 5, 2020. Ms. Degefa did not register a phone number for the hearing and her appeal was dismissed. No hearing was held. Ms. Degefa appealed and requested reopening of the hearing. The Employment Appeal Board (EAB) remanded the matter for a new hearing. Proper notice was given to both parties and a telephone hearing was conducted on March 12, 2021. Claimant participated personally and through an Amharic interpreter with CTS Language Link. Michael Baylah, testified for claimant. Christina Scott, human resources supervisor, represented the employer.

ISSUE:

Did Ms. Degefa voluntarily quit the employment with Seaboard Triumph Foods LLC for good cause reasons attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Employer is a food processing plant. The claimant was employed full-time as a general laborer and was separated from employment on April 15 2020, when she quit the employment. Continuing work was available.

Claimant’s first language is Amharic. She can speak some English. When she resigned however, she was told she needed to put on the resignation letter that she was quitting due to childcare, if she wanted to be eligible for rehire. Claimant misunderstood and did as directed by her management. Claimant stated the true reason was not childcare but safety issues. Claimant has two small children under five and she was afraid of who would care for her children if she contracted COVID-19 at the workplace, based upon the lack of safety protocol.

Claimant stated she worked side by side with employees. While employees had masks and a face shield attached to their helmets, usage was not enforced by employer. Claimant was

concerned based upon masses of people sharing common spaces including lunch rooms, where over one hundred people would be in the same space together. Breaks and meals were not staggered to space people out, and she quit eating lunch there before she felt unsafe. Claimant stated many employees were absent and quitting due to contracting COVID-19. Prior to quitting, claimant, along with other employees, tried to follow the chain of command and talk to the employer about their concerns, but were unsuccessful. Three days following claimant quitting, the employer temporarily shut down to sanitize/deep clean its premises.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes Ms. Degefa quit the employment for good cause attributable to the employer.

Iowa Code §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.

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).

"Good cause attributable to the employer" does not require fault, negligence, wrongdoing or bad faith by the employer. *Dehmel v. Employment Appeal Bd.*, 433 N.W.2d 700, 702 (Iowa 1988)("[G]ood cause attributable to the employer can exist even though the employer is free from all negligence or wrongdoing in connection therewith"); *Shontz v. Iowa Employment Sec. Commission*, 248 N.W.2d 88, 91 (Iowa 1976)(benefits payable even though employer "free from fault"); *Raffety v. Iowa Employment Security Commission*, 76 N.W.2d 787, 788 (Iowa 1956)("The good cause attributable to the employer need not be based upon a fault or wrong of such employer."). Good cause may be attributable to "the employment itself" rather than the employer personally and still satisfy the requirements of the Act. *Raffety*, 76 N.W.2d at 788 (Iowa 1956).

Claimant contends that she voluntarily quit due to intolerable working conditions, or unsafe working conditions, because she was not provided with proper protective equipment to reduce her risk of exposure to COVID 19. As such, if claimant establishes that she left due to intolerable or detrimental or unsafe working conditions, benefits would be allowed.

Generally, notice of an intent to quit is required by *Cobb v. Employment Appeal Board*, 506 N.W.2d 445, 447-78 (Iowa 1993), *Suluki v. Employment Appeal Bd.*, 503 N.W.2d 402, 405 (Iowa 1993), and *Swanson v. Employment Appeal Bd.*, 554 N.W.2d 294, 296 (Iowa Ct. App. 1996). These cases require an employee to give an employer notice of intent to quit, thus giving the employer an opportunity to cure working conditions. Accordingly, in 1995, the Iowa Administrative Code was amended to include an intent-to-quit requirement. The requirement was only added, however, to rule 871-24.26(6)(b), the provision addressing work-related health problems. No intent-to-quit requirement was added to rule 871-24.26(4), the intolerable working conditions provision. Our supreme court concluded that, because the intent-to-quit requirement was added to 871-24.26(6)(b) but not 871-24.26(4), notice of intent to quit is not required for

intolerable working conditions. *Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005).

Iowa Admin. Code r. 871-24.26(4) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(4) The claimant left due to intolerable or detrimental working conditions.

Iowa Admin. Code r. 871-24.26(2) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(2) The claimant left due to unsafe working conditions.

The standard of what a reasonable person would have believed under the circumstances is applied in determining whether a claimant left work voluntarily with good cause attributable to the employer. *O'Brien v. Employment Appeal Bd.*, 494 N.W.2d 660 (Iowa 1993). In this case, a reasonable person would have believed that claimant's working conditions were unsafe, intolerable and detrimental to the claimant due to the lack of safety procedures provided to employees to perform the job and the employer's guidelines that failed to properly protect her from infection. As such, the claimant's voluntary quitting was for a good-cause reason attributable to the employer according to Iowa law. Benefits are allowed, provided the claimant is otherwise eligible.

DECISION:

The unemployment insurance decision dated September 10, 2020, (reference 01) is reversed. The claimant voluntarily quit the employment with good cause attributable to the employer. Benefits are allowed, provided she is otherwise eligible.



Jennifer L. Beckman
Administrative Law Judge
Unemployment Insurance Appeals Bureau
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax 515-478-3528

March 15, 2021
Decision Dated and Mailed

jlb/mh