

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DUSTIN D CLAYTON
Claimant

DALTON AG INC
Employer

APPEAL 20A-UI-01655-CL-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 12/29/19
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

On February 22, 2020, the claimant filed an appeal from the February 13, 2020, (reference 03) unemployment insurance decision that denied benefits based on a separation from employment. The parties were properly notified about the hearing. A telephone hearing was held on March 11, 2020. Claimant participated. Employer participated through finance and human resource manager Brittany Ewing and director of operations Rich Smothers.

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 began working for employer on January 28, 2019. Claimant last worked as a full-time welder II. Claimant was separated from employment on August 28, 2019, when he resigned.

Employer has a policy stating that three no-call/no-show absences will result in separation from employment. However, employer did not give claimant a copy of the policy.

Within the last month of his employment, claimant told employer that he needed a raise. Employer told claimant that employer was on a merit freeze and could not give him a raise.

Claimant had been ill during the last year of his employment and believed it was because of the air quality in his work area. About two months before resigning, claimant requested a respirator. Employer said they would consider the request, but did not get back to claimant. Claimant did not tell employer he was going to resign if he did not get the respirator.

Although claimant was seeing a medical provider about his illness, the provider did not recommend that claimant resign.

Claimant had conversations with finance and human resource manager Brittany Ewing and director of operations Rich Smothers about a week before his separation stating he was

unhappy with working conditions. Claimant did not directly state he was resigning, but implied that he was going to do so if he did not get a raise.

Claimant had a no-call/no-show absence on August 26, 2019, and never returned to work. Employer considered claimant separated on August 28, 2019, pursuant to its policy on no-call/no-show absences.

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, 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 is not disqualified under this provision as employer was unable to establish claimant was aware of the rule regarding no-call/no-show absences. The reasons claimant stopped coming to work will be analyzed.

Iowa Admin. Code r. 871-24.25(13) 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:

(13) The claimant left because of dissatisfaction with the wages but knew the rate of pay when hired.

Iowa Admin. Code r. 871-24.26(6)b 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:

(6) Separation because of illness, injury, or pregnancy.

b. Employment related separation. The claimant was compelled to leave employment because of an illness, injury, or allergy condition that was attributable to the employment. Factors and circumstances directly connected with the employment which caused or aggravated the illness, injury, allergy, or disease to the employee which made it impossible for the employee to continue in employment because of serious danger to the employee's health may be held to be an involuntary termination of employment and constitute good cause attributable to the employer. The claimant will be eligible for benefits if compelled to leave employment as a result of an injury suffered on the job.

In order to be eligible under this paragraph "b" an individual must present competent evidence showing adequate health reasons to justify termination; before quitting have informed the employer of the work-related health problem and inform the employer that the individual intends to quit unless the problem is corrected or the individual is reasonably accommodated. Reasonable accommodation includes other comparable work which is not injurious to the claimant's health and for which the claimant must remain available.

In this case, claimant resigned because his request for a raise was denied and he believed the workplace was making him ill. Claimant did not establish with competent medical evidence that the workplace was making him sick, but even if he had, he did not give the employer notice he was going to resign unless an accommodation was provided that would have allowed him to continue in the job.

While claimant may have resigned for good personal reasons, the claimant failed to establish he resigned for a good cause reason attributable to employer.

DECISION:

The February 13, 2020, (reference 03) unemployment insurance decision is affirmed. Claimant voluntarily left the 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.



Christine A. Louis
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March 16, 2020
Decision Dated and Mailed

cal/scn