

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

**CHRIS C GRUNDMEIER**  
Claimant

**APPEAL NO: 19A-UI-00418-JC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BREDA TELEPHONE CORPORATION**  
Employer

**OC: 12/09/18**  
**Claimant: Appellant (5)**

Iowa Code § 96.5(1) – Voluntary Quitting  
Iowa Admin. Code r. 871-24.25(38)- Discharge During Resignation Period  
Iowa Code § 96.5(2)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the January 9, 2019, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on January 30, 2019. The claimant participated personally. The employer participated through Stephanie Thomsen, human resources manager. The administrative law judge took official notice of the administrative records including the fact-finding documents. Claimant Exhibit A was admitted into evidence. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUES:**

The first issue is whether the claimant left employment with good cause that was attributable to the employer.

The second issue is whether the claimant's resignation caused him to be discharged for the notice period.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed full-time as a customer service representative and was separated from employment on July 30, 2018.

On July 30, 2018, the claimant verbally tendered his resignation and offered a two-week notice to the employer by way of his customer service supervisor. He told her he was going home for the day. He then confirmed his intent to quit to Ms. Thomsen in a second conversation, stating he "had it". The employer accepted the claimant's resignation and stated had he not quit, continuing work would have been available.

The claimant stated he quit the employment based upon getting the cold shoulder from his supervisor, Laura, and believed he should receive more training. The claimant also thought he was going to secure employment in a management role with Cricket Wireless, but did not actually secure the position. Prior to quitting the employment, the claimant did not raise concerns with human resources that were causing him to contemplate quitting.

When the claimant changed his mind on July 30, 2018, and wanted to rescind his resignation, the employer would not allow him to do so, and accepted his resignation effective immediately, rather than allow him to work out his notice. This decision was based upon the employer's business practice. The claimant was not permitted to work out a two week notice and was not paid for the notice period. Had he worked out a two week notice, his final day of employment would have been August 10, 2018.

The claimant established a claim for benefits with an effective date of December 9, 2018. Since separation with this employer, the claimant performed work for Cricket Wireless (not as a manager) for approximately one month, and began new employment approximately three weeks ago. It is unclear from the administrative records whether the claimant has requalified since his separation from this employer.

#### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment without good cause attributable to the employer, but was discharged for no disqualifying reason prior to the intended resignation date.

A voluntary quitting of employment requires that an employee exercise a voluntary choice between remaining employed or terminating the employment relationship. *Wills v. Emp't Appeal Bd.*, 447 N.W.2d 137, 138 (Iowa 1989); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438, 440 (Iowa Ct. App. 1992). Generally, a quit is defined to be a "termination of employment initiated by the employee for any reason except mandatory retirement or transfer to another establishment of the same firm, or for service in the armed forces." Furthermore, 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). Therefore, the first question before the administrative law judge is whether the evidence in the record establishes that the claimant gave his notice of leaving employment and his resignation was accepted by the employer. It does.

The claimant verbally tendered his resignation to both Ms. Thomsen and his customer service supervisor, and indicated he would be offering a two-week's notice. The administrative law judge recognizes the claimant later attempted to rescind the notice but it was the claimant who initiated the separation in this case by originally tendering the resignation on July 30, 2018.

The reasons the claimant stated he intended to quit are related due to conflict with his supervisor, dissatisfaction with his training, and because he intended to secure new employment.

Iowa unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer. Iowa Code §§ 96.5(1). They remain disqualified until such time as they requalify for benefits by working and earning insured wages ten times their weekly benefit amount. *Id.* Ordinarily, "good cause" is derived from the facts of each case keeping in mind the public policy stated in Iowa Code section 96.2. *O'Brien v. EAB*, 494 N.W.2d 660, 662 (Iowa 1993)(citing *Wiese v. Iowa Dep't of Job Serv.*, 389 N.W.2d 676, 680

(Iowa 1986)). "The term encompasses real circumstances, adequate excuses that will bear the test of reason, just grounds for the action, and always the element of good faith." *Wiese v. Iowa Dep't of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986) "[C]ommon sense and prudence must be exercised in evaluating all of the circumstances that lead to an employee's quit in order to attribute the cause for the termination." *Id.*

Iowa Admin. Code r. 871-24.25 provides in pertinent parts:

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:

...

(3) The claimant left to seek other employment but did not secure employment.

...

(21) The claimant left because of dissatisfaction with the work environment.

(22) The claimant left because of a personality conflict with the supervisor.

Based on the evidence presented, the administrative law judge concludes the claimant's quitting the employment may have been for good personal reasons, but was not good cause attributable to the employer, according to Iowa law. However, the claimant gave the employer an advanced notice of his resignation and was then discharged by the employer prior to the proposed date of resignation because the employer, for business reasons, had a policy of not letting employees who resign continue to work through their notice period.

Iowa Admin. Code r. 871-24.25(38) 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:

(38) Where the claimant gave the employer an advance notice of resignation which caused the employer to discharge the claimant prior to the proposed date of resignation, no disqualification shall be imposed from the last day of work until the proposed date of resignation; however, benefits will be denied effective the proposed date of resignation.

Because the claimant was discharged by the employer for the two week period prior to the proposed date of his resignation, no disqualification shall be imposed from the last day of work for the two week period until August 11, 2018. The claimant is then subject to a benefit disqualification for voluntarily quitting employment without good cause attributable to the employer effective August 12, 2018. Because the claimant does not have weekly continued

claims on file for the two week period between July 29, 2018 and August 11, 2018, this decision is modified with no change in effect.

**DECISION:**

The January 9, 2019, (reference 01) decision is modified in favor of the claimant but with no change in effect. The claimant voluntarily left the employment without good cause attributable to the employer, but was discharged prior to the resignation effective date. Benefits are allowed July 29, 2018 until August 11, 2018. Thereafter, benefits are withheld until such time as the claimant works in and has been paid wages equal to ten times his weekly benefit amount.

Because the claimant does not have weekly continued claims on file for the two week period between July 29, 2018 and August 11, 2018, this decision is modified with no change in effect.

---

Jennifer L. Beckman  
Administrative Law Judge

---

Decision Dated and Mailed

jlb/scn