

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

RUDY BAHENA
Claimant

HY-VEE INC
Employer

APPEAL 21A-UI-09544-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/14/20
Claimant: Appellant (1)

Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.5(1) – Voluntary Quit
Iowa Code § 96.4(3) – Able to and Available for Work

STATEMENT OF THE CASE:

Rudy Bahena, the claimant/appellant filed an appeal from the March 30, 2021, (reference 01) unemployment insurance decision that denied benefits because he voluntarily quit. The parties were properly notified about the hearing. A telephone hearing was held on June 18, 2021. Mr. Bahena participated and testified. The employer participated through Lacy Rumsey, district human resources manager and Barbara Buss, hearing representative.

ISSUE:

Did Mr. Bahena voluntarily quit without good cause attributable to the employer?
Is Mr. Bahena able to and available for work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Bahena began working for the employer on August 7, 2019. He worked as a part-time cashier at the employer's Des Moines store.

In early March 2021, Mr. Bahena was kicked out of his housing with short notice. The only place he could go was a friend's house in Missouri. On March 4,, Mr. Bahena told the employer that he would be quitting on March 11 because he was moving out of state. Mr. Bahena's employment ended on March 11. Mr. Bahena moved to Missouri soon thereafter.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes Mr. Bahena's separation from employment was without good cause attributable to the employer.

Iowa Code section 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.

Iowa Admin. Code r. 871-24.25 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:

(37) The claimant will be considered to have left employment voluntarily when such claimant gave the employer notice of an intention to resign and the employer accepted such resignation. This rule shall also apply to the claimant who was employed by an educational institution who has declined or refused to accept a new contract or reasonable assurance of work for a successive academic term or year and the offer of work was within the purview of the individual's training and experience.

A 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). The 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).

In this case, Mr. Bahena quit on March 11 to move out of state. Mr. Bahena, understandably, did what he needed to do to secure housing. However, Mr. Bahena leaving his job as a result of his housing situation was not for a good-cause reason attributable to the employer according to Iowa law. Benefits are denied.

DECISION:

The March 30, 2021, (reference 01) unemployment insurance decision is affirmed. Mr. Behena 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.



Daniel Zeno
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July 1, 2021
Decision Dated and Mailed

dz/mh