

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TIMOTHY KRUEGER
Claimant

APPEAL 21A-UI-09249-CS-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

ENTERPRISE RENT-A-CAR COMPANY
Employer

OC: 03/22/20
Claimant: Appellant (1)

Iowa Code §96.5(2)a-Discharge/Misconduct
Iowa Code §96.5(1)- Voluntary Quit

STATEMENT OF THE CASE:

On March 25, 2021, the claimant filed an appeal from the March 16, 2021, (reference 01) unemployment insurance decision that disallowed benefits based on the claimant voluntarily quitting by failing to report to work for three days. The parties were properly notified about the hearing. A telephone hearing was held on June 7, 2021. Claimant personally participated in the hearing. Employer participated through employer representative Ashley Pickhinke. Exhibit 1 and Exhibit 2 was admitted into the record.

ISSUE:

Was the separation a layoff, discharge for misconduct or voluntary quit without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on August 30, 2005. Claimant last worked as a part-time automotive detailer for the employer. On January 28, 2021, claimant received a written warning for insubordination and was sent home for the day. Later that day employer called claimant and notified him that he was being transferred to a new location for the same pay and same hours. Employer told claimant to report to the new location the next day. After the claimant heard about his new job location, he said "whatever" and hung up on the employer. The claimant was unhappy about the transfer because it would mean he would be outside his entire shift. Claimant has a leg and nerve condition and did not want to be outside the entire shift during the bitterly cold weather and the amount of walking would increase substantially which would be difficult for him. Employer attempted to call claimant back but was unsuccessful in reaching him. When claimant didn't show up for work on January 29, 2021, the employer tried calling the claimant twice but the claimant did not answer. The employer sent a letter to the claimant on January 29, 2021, notifying him that if he did not call the employer or show up to work three days in a row that they would assume he voluntarily abandoned his position. (Exhibit 1) Claimant did not contact the employer Friday, January 29, 2021, Monday, February 1, 2021, Tuesday, February 2, 2021, or Wednesday, February 3, 2021 in violation of the company policy. (Exhibit 2) Claimant was separated from

employment on February 2, 2021, when claimant did not call or show up for work for three days. Claimant did not receive the letter until February 3, 2021. When claimant received the letter he assumed he was terminated.

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:

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:

Iowa Admin. Code r. 871-24.25 (4):

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

Iowa Admin. Code r. 871-24.25(21):

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

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). 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).

Claimant testified that he could not work in the bitterly cold temperatures because of the nerve condition that he has in his leg and foot. Claimant also testified that he would be walking three times the amount of distance at the new location and that would be too difficult for him. However, claimant did not provide a medical restriction and did not ask for accommodations from the employer. Ultimately, claimant was unhappy with the new work environment he would be in at the new location and did not want to transfer. Claimant did not reach out to the employer for three

days and under Iowa law he is deemed to have abandoned his job and voluntarily quit. Benefits are denied.

DECISION:

The March 16, 2021, (reference 01) unemployment insurance decision is affirmed. The claimant 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.



Carly Smith
Administrative Law Judge
Unemployment Insurance Appeals Bureau

June 21, 2021
Decision Dated and Mailed

cs/mh