

The police arrived and took each parties' statement; the Employer was inside the home while the Claimant was outside. The Employer denied any physical assault, and the police found nothing to show an assault occurred. The police asked the Employer what the Claimant had to do to get his job back. The Employer told the officer all the Claimant needed to do was to contact him. The Employer did not hear from the Claimant and assumed he quit. The Employer never received a police report or any other correspondence regarding the matter.

The Employer did not participate in the initial fact-finding interview by telephone.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits: *Voluntary Quitting*. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

871 IAC 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...

(27) The claimant left rather than perform the assigned work as instructed.

(28) The claimant left after being reprimanded.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code §96.6(2) (amended 1998).

The findings of fact show how we have resolved the disputed factual issues in this case. We have carefully weighed the credibility of the witnesses and the reliability of the evidence. We attribute more weight to the Employer's version of events. Here, the Claimant was clearly upset he was asked to complete a task that he initially did not perform properly. The Claimant's verbal response, in particular his use of profanity, corroborated his distaste for being redirected. The Employer's placing his hand on the Claimant was merely an attempt to gain his attention to prevent the customer from overhearing the Claimant's unprofessional comments. The Employer has a right to expect civility and professionalism from its employees. The Claimant's response to being touched was an overreaction to the situation, as evidenced by the fact the police officer, after taking statements from both parties, simply asked how the Claimant could come back. There is no evidence in the record to support the Employer terminated the Claimant, or ever issued any prior warnings to the Claimant. When the Claimant failed to stay at the worksite, or contact the Employer about his job, the Employer reasonably believed his quit. Based on this record, we conclude the Claimant voluntarily quit without good cause attributable to the Employer.

DECISION:

The administrative law judge's decision dated June 23, 2020 is **REVERSED**. The Employment Appeal Board concludes that the Claimant voluntarily quit without good cause attributable to the Employer. Accordingly, he is denied benefits until such time he has worked in and was paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. See, Iowa Code section 96.5(1)"g".

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AMG/fnv