

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

TRENT GUNZENHAUSER
Claimant

NORTHWEST STEEL ERECTION INC
Employer

APPEAL 21R-UI-22453-SN-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/14/21
Claimant: Appellant (2)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

On June 2, 2021, Trent Gunzenhauser (claimant/appellant) filed an appeal from the May 27, 2021, reference 02, unemployment insurance decision that denied benefits based upon his voluntary quit. The parties were properly notified about the hearing. A telephone hearing was held on August 4, 2021. A review of the Appeals Bureau's conference call system indicates that the appellant failed to respond to the hearing notice and provide a telephone number at which the appellant could be reached for the scheduled hearing and no hearing was held. This administrative law judge issued a default decision, 21A-UI-13431-SN-T.

The claimant appealed 21A-UI-13431-SN-T. The Employment Appeal Board (EAB) remanded the case back to the administrative law judge to evaluate the merits in 21B-UI-13430. A remand hearing was scheduled for November 30, 2021. The claimant participated. The employer did not participate. He was represented by Stuart Higgins, attorney at law.

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:

The claimant was employed full-time as a journeyman ironworker from November 2019, until he was separated from employment on March 13, 2020, when he was laid off. His immediate supervisor was Foreman Travis Rupke.

The claimant is not aware of a provision in the company handbook that states if an employee is a no-call / no-show for three consecutive days, then they are to be considered a voluntary quit.

On March 13, 2020, Mr. Rupke told the claimant that he and several other workers would be laid off, so that other workers could continue to work at that job site. Mr. Rupke stated that the layoff was related to the Covid19 pandemic pushing other job sites further into the calendar year.

Foreman Tylor Young overheard Mr. Rupke telling the claimant he was going to be laid off that day. Mr. Young wrote a signed affidavit corroborating the claimant's account of Mr. Rupke's words that day.

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. 871-24.1(113)a provides:

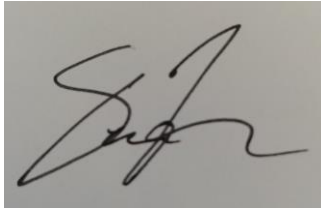
Separations. All terminations of employment, generally classifiable as layoffs, quits, discharges, or other separations.

a. Layoffs. A layoff is a suspension from pay status initiated by the employer without prejudice to the worker for such reasons as: lack of orders, model changeover, termination of seasonal or temporary employment, inventory-taking, introduction of laborsaving devices, plant breakdown, shortage of materials; including temporarily furloughed employees and employees placed on unpaid vacations.

The claimant did not quit but was laid off. This type of separation is attributable to the employer. Benefits are granted, provided he is otherwise eligible.

DECISION:

The May 27, 2021, reference 02, unemployment insurance decision is reversed. The claimant's separation from employment is non-disqualifying. Benefits are granted, provided he is otherwise eligible.

A handwritten signature in black ink, appearing to read 'Sean M. Nelson', is written over a light gray rectangular background.

Sean M. Nelson
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515) 725-9067

December 28th, 2021
Decision Dated and Mailed

smn/rs