

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JOHN ENNIS
Claimant

THE UNIVERSITY OF IOWA
Employer

APPEAL 21A-UI-17950-SN-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 05/23/21
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quit
Iowa Admin. Code r. 871-24.26(4) – Intolerable working conditions

STATEMENT OF THE CASE:

The claimant filed an appeal from the August 10, 2021, (reference 01) unemployment insurance decision that denied benefits based upon her voluntary quit. The parties were properly notified about the hearing. A telephone hearing was held on October 6, 2021. The claimant participated and testified. The claimant was represented by Randy Schueller, attorney at law.¹ The employer participated through Human Resources Associate Scott Coons. No exhibits were received into the record. The employer's proposed exhibit, a settlement agreement, was not admitted because the reason for admitting it was due to a global release provision.

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 safety and security officer from September 4, 2018, and was separated from employment on May 21, 2021, when he quit.

The employer did not furnish proof it has a rule that states an employee is considered a voluntary quit if they are absent for three days without giving notice to the employer.

On March 28, 2018, the claimant suffered head trauma on the employer's premises. The claimant subsequently filed a worker's compensation claim. Over the course of the his employment, the claimant received various restrictions from medical providers that restricted him to working only so many hours or days per week. According to the claimant, the employer complied with these agreements "to a point." He brought up a specific instance in which he was

¹ Mr. Schueller excused himself from the hearing stating he was comfortable with the record at that point in time. He said he was scheduled to be in another hearing at that time. The administrative law judge did not receive this information prior to the hearing.

restricted from working more than five days in a row and he was scheduled to work eight days in a row. Neither party had information regarding the circumstances leading up to the settlement agreement.

On May 21, 2021, the claimant signed a settlement agreement. As part of that agreement, the claimant agreed to resign from his position. Despite agreeing to resign, the claimant did not ever submit his resignation. He did not say he quit in lieu of termination. When he was asked what led up to the settlement agreement, the claimant said he did not have any specific information regarding why he decided to sign the settlement agreement.

In light of the settlement agreement reached on May 21, 2021, the claimant was not scheduled to work additional days.

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, regardless of the source of the individual's wage credits:

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.

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

Iowa Admin. Code r. 871-24.26(6)b provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(6) Separation because of illness, injury, or pregnancy.

b. Employment related separation. The claimant was compelled to leave employment because of an illness, injury, or allergy condition that was attributable to the employment. Factors and circumstances directly connected with the employment which caused or aggravated the illness, injury, allergy, or disease to the employee which made it impossible for the employee to continue in employment because of serious danger to the employee's health may be held to be an involuntary termination of employment and constitute good cause attributable to the employer. The claimant will be eligible for benefits if compelled to leave employment as a result of an injury suffered on the job.

In order to be eligible under this paragraph "b" an individual must present competent evidence showing adequate health reasons to justify termination; before quitting have informed the employer of the work-related health problem and inform the employer that the individual intends to quit unless the problem is corrected or the individual is reasonably accommodated. Reasonable accommodation includes other comparable

work which is not injurious to the claimant's health and for which the claimant must remain available.

It is the duty of the administrative law judge as the trier of fact in this case, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *Id.* In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other believable evidence; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *Id.*

After assessing the credibility of the witnesses who testified during the hearing, considering the applicable factors listed above, and using his own common sense and experience, the administrative law judge finds Mr. Coons more credible than the claimant.

The administrative law judge finds the claimant's allegation that he was terminated on May 21, 2021 not credible. The claimant could not identify who informed him of his termination. He also finds Mr. Coons testimony stating that the claimant agreed to resign as part of the terms of the settlement credible. While Mr. Coons had limited information regarding circumstances regarding the claimant's employment, he credibly described the terms of the agreement.

The administrative law judge disagrees with the representative that the claimant quit because he did not report to work after May 21, 2021. The claimant signed a settlement agreement agreeing to voluntarily resign. Since the claimant resigned as part of the settlement agreement, he has the burden to show his resignation was with good cause attributable to the employer.

An individual who voluntarily leaves their employment due to an alleged work-related illness or injury must first give notice to the employer of the anticipated reasons for quitting in order to give the employer an opportunity to remedy the situation or offer an accommodation. *Suluki v. Employment Appeal Board*, 503 N.W.2d 402 (Iowa 1993). An employee who receives a reasonable expectation of assistance from the employer after complaining about working conditions must complain further if conditions persist in order to preserve eligibility for benefits. *Polley v. Gopher Bearing Company*, 478 N.W.2d 775 (Minn. App. 1991).

Inasmuch as it is the claimant's burden to show his voluntary resignation was with good cause, he is required to give specific information regarding what led him to resign. When the claimant was asked what led to the breakdown in the relationship with the employer, he said he did not have any specifics to give. He gave a specific example, in which the employer scheduled him for eight days rather than five days per his restrictions. He did not state whether he reached out to the employer to get his scheduling changed to comply with his restrictions or provide any other details about when this dispute came up. Such circumstances are required to show his working conditions were such to compel him to resign. See *Suluki v. Employment Appeal Board*, 503 N.W.2d 402 (Iowa 1993). The claimant has failed to meet his burden to show he attempted to resolve his work-related injury concerns with the employer prior to resigning. Benefits are denied.

DECISION:

The August 10, 2021, (reference 01) unemployment insurance decision is affirmed. The claimant voluntarily left the 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.

A handwritten signature in black ink, appearing to read 'Sean M. Nelson', is shown within a rectangular frame.

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

October 08, 2021
Decision Dated and Mailed

smn/ol