

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

BENNIE J GRAY
Claimant

GODBERSEN-SMITH CONST CO
Employer

APPEAL 15A-UI-11381-CL-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 09/06/15
Claimant: Appellant (2)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the October 7, 2015, (reference 03) unemployment insurance decision that denied benefits based upon a voluntary quit. The parties were properly notified about the hearing. A telephone hearing was held on October 27, 2015. Claimant participated. Employer participated through payroll manager, Karen Gunderson.

ISSUE:

Did claimant voluntarily leave the employment with good cause attributable to employer or did employer discharge claimant for reasons related to job misconduct sufficient to warrant a denial of benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as a laborer from July 20, 2015, and was separated from employment on September 3, 2015, when he voluntarily quit.

On September 3, 2015, claimant was waiting to shovel concrete. Supervisor Rick Thompson yelled at claimant, "You can't just fucking stand there when there is work to be done!" Thompson's face was red. Claimant tried to explain he was waiting because there was no room in the work area for him to help. Thompson continued to yell. Thompson had behaved this way toward claimant on three or four previous occasions. Claimant called safety employee, Kerry Schurke, to report what had occurred and asked to be moved to another crew. Schurke told claimant there were no openings on other crews and offered no solution to the situation. Claimant resigned.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant voluntarily left the employment with good cause attributable to the employer.

Iowa Code § 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. 871-24.26(4) 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:

(4) The claimant left due to intolerable or detrimental working conditions.

“The use of profanity or offensive language in a confrontational, disrespectful, or name-calling context may be recognized as misconduct, even in the case of isolated incidents or situations in which the target of abusive name-calling is not present when the vulgar statements are initially made.” *Myers v. Emp’t Appeal Bd.*, 462 N.W.2d 734 (Iowa Ct. App. 1990). Inasmuch as an employer can expect professional conduct and language from its employees, claimant is entitled to a working environment without being the target of abusive and obscene language. An employee should not have to endure bullying or a public dressing down with abusive language directed at them, either specifically or generally as part of a group, in order to retain employment any more than an employer would tolerate it from an employee.

DECISION:

The October 7, 2015, (reference 03) unemployment insurance decision is reversed. Claimant voluntarily left the employment with good cause attributable to the employer. Benefits are allowed, provided he is otherwise eligible and the benefits withheld shall be paid.

Christine A. Louis
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Decision Dated and Mailed

cal/pjs