

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CHAD R WALKER
Claimant

WINNEBAGO TRIBE OF NEBRASKA
Employer

APPEAL 15A-UI-09169-SC-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 07/19/15
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the August 5, 2015, (reference 01) unemployment insurance decision that denied benefits based upon the determination he voluntarily quit his employment by missing work on three consecutive days without notification to the employer. The parties were properly notified about the hearing. A telephone hearing was held on September 1, 2015. Claimant Chad Walker participated on his own behalf. Employer Winnebago Tribe of Nebraska participated through Human Resources Generalist Cindy Coleman and Housekeeping Manager Frank White. Claimant's Exhibit A was received.

ISSUE:

Did the claimant voluntarily quit the employment with good cause attributable to 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 Housekeeping Supervisor beginning September 22, 2011, and was separated from employment on July 12, 2015. The claimant's last day worked was July 4, 2015. He did not report to work on July 5, 2015, his next scheduled shift. He called his back-up manager, Mike Snow, and notified him that he would not be at work due to personal reasons. The claimant did not contact his supervisor, Housekeeping Manager Frank White.

The claimant reported to work for his next scheduled shift on July 6, 2015. He did not speak to White before reporting for his shift. When the claimant arrived, his cousin and Snow informed him that White had made Snow the new manager and the claimant was terminated. The claimant did not contact White or anyone else in management about the situation. The claimant was upset with White as he and White had disagreements in the past. He did not report for his next shift on July 9, 2015 or any other subsequent shift. The claimant was deemed to have voluntarily quit or abandoned his job.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant's separation from the employment was without good cause attributable to the employer. Benefits are denied.

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. 871-24.25(22) 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:

(22) The claimant left because of a personality conflict with the supervisor.

The 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).

Generally, when an individual mistakenly believes they are discharged from employment, but was not told so by the employer, and he or she discontinues reporting for work, the separation is considered a quit without good cause attributable to the employer. Since the claimant did not follow up with management personnel or his supervisor, and his assumption of having been fired was erroneous, his failure to continue reporting to work was an abandonment of the job. Additionally, the claimant's decision to discontinue reporting for work instead of contacting White due to their previous disagreements is not a good cause reason to leave his employment that is attributable to the employer. Benefits are denied.

DECISION:

The August 5, 2015, (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.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/pjs