

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CODY STALEY
Claimant

HY-VEE INC
Employer

APPEAL 21A-UI-08415-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 01/31/21
Claimant: Appellant (2R)**

Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Cody Staley, the claimant/appellant filed an appeal from the March 24, 2021, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on June 8, 2021. Mr. Staley participated and testified. The employer did not respond at the telephone number it provided at the time the hearing was scheduled to begin. The employer's hearing representative chose to not participate in the hearing. Claimant's Exhibit A was admitted into evidence.

ISSUE:

Did Mr. Staley voluntarily 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: Mr. Staley began working for the employer in September 2020. He worked as a full-time picker. At the end of October 2020, Mr. Staley quit to return to his previous job at John Deere.

Before September 2020, Mr. Staley had worked full-time at John Deere for almost four years. Mr. Staley had full benefits and seniority at John Deere. In September 2020, Mr. Staley was exposed to someone who had tested positive for COVID-19 and he began experiencing COVID-19 symptoms. Mr. Staley tested negative for COVID-19 at a drive-through testing site. John Deere wanted Mr. Staley to provide a note from his family doctor to return to work. Mr. Staley did not have a family doctor so he could not provide a note. Mr. Staley missed three days of work and John Deere considered him to have voluntarily quit. Mr. Staley's union helped him get his job back eventually. While his union was working on getting his job back at John Deere, Mr. Staley worked at this employer. When he was able to return to his long-term, full-time job, Mr. Staley quit this employer and returned to John Deere.

John Deere laid off Mr. Staley from February 1, 2021 through February 14, 2021 due to lack of work. Iowa Workforce Development has not yet investigated and made a decision about this issue.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

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. But the individual shall not be disqualified if the department finds that:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

A voluntary quitting means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer and requires an intention to terminate the employment. *Wills v. Emp't Appeal Bd.*, 447 N.W. 2d 137, 138 (Iowa 1989). 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); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992). 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).

Iowa Admin. Code r. 871-23.43(5) provides:

(5) Sole purpose. The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment. No charge shall accrue to the account of the former voluntarily quit employer.

(emphasis added).

In this case, Mr. Staley voluntarily quit this employer for the sole purpose of going back to his better job with John Deere. Mr. Staley's voluntarily quit was not disqualifying because he quit for the sole purpose of accepting an offer of other employment. Benefits are allowed, provided he is otherwise eligible. No charges shall accrue to the employer's account pursuant to Iowa Admin. Code r. 871-23.43(5).

DECISION:

The March 24, 2021, (reference 01) unemployment insurance decision is reversed. Mr. Staley's separation from employment with this employer is not disqualifying because he voluntarily quit

for the sole purpose of accepting better employment. The employer's account shall not be charged.

REMAND:

The issue of Mr. Staley's lay off from John Deere from February 1, 2021 through February 14, 2021 due to lack of work is remanded to the Benefits Bureau of Iowa Workforce Development for investigation and a decision.



Daniel Zeno
Administrative Law Judge
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June 21, 2021
Decision Dated and Mailed

dz/ol