

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MOSES SAYPLAY
Claimant

MC WANE INC.
Employer

APPEAL 21A-UI-09046-CS-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 02/21/21
Claimant: Appellant (1)**

Iowa Code §96.5(2)a- Discharge/Misconduct
Iowa Code §96.5(1)- Voluntary Quit
Iowa Code § 96.4(3) – Ability to and Availability for Work

STATEMENT OF THE CASE:

On March 31, 2021, the claimant/appellant filed an appeal from the March 29, 2021, (reference 01) unemployment insurance decision that disallowed benefits based on the claimant voluntarily quitting employment for personal reasons. The parties were properly notified about the hearing. A telephone hearing was held on June 3, 2021. Claimant personally participated in the hearing. Employer participated through Tom Loch. Exhibits A, B, and C were admitted into the record.

ISSUES:

Was the separation a voluntary quit with good cause attributable to the employer? Is the claimant able to and available for work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on June 26, 2018. Claimant last worked as a full-time painter at a station with four other co-workers. This station resembled an assembly line where one employee would unload hydrants, the next employee would paint the hydrants, the third employee would put the painted hydrant into the oven to bake, and the last worker would unload the hydrant out of the oven. Over the course of the work day the co-workers would interchange positions on the assembly and more than one person may be in the painting booth with another employee. The painting booth was described as a large area but it was enclosed. There were times when employees would use the same computer to conduct their job.

When the COVID pandemic occurred the employer implemented COVID safety measures by imposing mandatory temperature readings before entering on the work floor, mandatory mask wearing, and physical distancing. The employer had a COVID protocol in place that mandated quarantining if: 1) an employee tested positive for COVID; 2) if an employee displayed symptoms; or 3) if an employee was in close contact with a co-worker that tested positive. Close contact was defined as three or more minutes within six feet of each other.

On December 13, 2020, a co-worker in claimant's station became ill with COVID and was directed to quarantine. Two other co-workers at his station was directed to quarantine because they had been contract traced as being potentially exposed to the co-worker that tested positive. The two co-workers that were put on mandatory quarantine for being in close contact did not test positive for COVID. On December 28, 2020, claimant learned the other three co-workers at his station were under quarantine. The claimant was the only one in the station of four workers not to be put on quarantine. On December 29, 2020, claimant, on his own initiative, tested for COVID but tested negative. Claimant was upset because the employer never told him that he may have been exposed to COVID. Claimant also became upset that he was not put under mandatory quarantine when the other two workers that had been in contact with the COVID positive co-worker had been put on quarantine. Claimant voiced his concerns to the employer. (Exhibit C). Claimant was separated from employment on February 15, 2021, when he submitted his written resignation voluntarily quitting due to an unsafe work environment. (Exhibit A).

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant voluntarily quit without good cause attributable to employer. Benefits are denied.

Iowa Code § 96.5(1) provides: An individual shall be disqualified for benefits, if the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

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. 871-24.26(2) and (4) provide:

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:

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

In order to meet this standard, the claimant has to show a reasonable person in his position would have quit, which is a fairly high standard. Here, the claimant cannot show he quit due to unsafe, intolerable or detrimental working conditions. The claimant argues that he was in an unsafe work environment because he was not notified of his potential COVID exposure. Ultimately whether claimant was put on a mandatory quarantine or not would not have protected him from the COVID

exposure. The employer testified regarding the company's mitigation efforts to reduce the spread of COVID. This included mandatory temperature checks, mask wearing, and physical distancing. Arguably mandating the other three co-workers be put on quarantine did protect the claimant from being exposed to COVID. Additionally, the claimant did not test positive for COVID after the potential exposure in December 2020. There was no evidence that additional pre-cautionary measures should have been put in place to reduce the claimant's exposure to COVID.

Additionally, the employer was an essential function job and continued working through the pandemic. Claimant did not voice concerns regarding the COVID protocol until December 2020. Claimant did not submit his resignation until February 15, 2021, almost 11 months after the state of Iowa issued a State of Public Health Disaster Emergency. The claimant has not met its burden of proof that a reasonable person in his position would have quit due to the unsafe work environment. Benefits are denied.

DECISION:

The March 29, 2021 (reference 01) unemployment insurance decision is affirmed. Claimant voluntarily quit without good cause attributable to employer. Benefits are denied until claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.



Carly Smith
Administrative Law Judge
Unemployment Insurance Appeals Bureau

June 17, 2021
Decision Dated and Mailed

cs/mh