

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DAN L FREEMAN
Claimant

MORTON BUILDINGS INC
Employer

APPEAL 21A-UI-23329-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 09/05/21
Claimant: Respondent (1)**

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

STATEMENT OF THE CASE:

On October 20, 2021, Morton Buildings Inc (employer/appellant) filed an appeal from the October 14, 2021 (reference 01) unemployment insurance decision that allowed benefits based on a finding claimant quit work on September 5, 2021 because working conditions were detrimental to him.

A telephone hearing was held on December 10, 2021. The parties were properly notified of the hearing. Employer participated by Payroll Coordinator Nicole Madon. Dan Freeman (claimant/respondent) participated personally.

Official notice was taken of the administrative record.

ISSUE(S):

- I. Was the separation a layoff, discharge for misconduct, or voluntary quit without good cause?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant worked for employer as a full-time Operator 2. Claimant's first day of employment was September 18, 2019. Claimant's immediate supervisor was Alan Sterang. The last day claimant worked on the job was July 28, 2021. Claimant separated from employment on that date. Claimant resigned because employer was not honoring work restrictions his doctor had placed him on following a work-related injury. Claimant raised this issue with Sterang, who assigned him to another task he could not complete within his restrictions. Claimant had also been written up the prior day for two absences that were properly reported and related to the injury.

REASONING AND CONCLUSIONS OF LAW:

For the reasons set forth below, the October 14, 2021 (reference 01) unemployment insurance decision that allowed benefits based on a finding claimant quit work on September 5, 2021 because working conditions were detrimental to him is AFFIRMED.

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.

Iowa Admin. Code r. 871-24.26 provides in relevant part:

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.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). The employer has the burden of proving that a claimant's departure from employment was voluntary. *Irving v. Emp't Appeal Bd.*, 883 N.W.2d 179 (Iowa 2016). "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". *Id.* (citing *Cook v. Iowa Dept. of Job Service*, 299 N.W.2d 698, 701 (Iowa 1980)).

"Good cause" for leaving employment must be that which is reasonable to the average person, not to the overly sensitive individual or the claimant in particular. *Uniweld Products v. Industrial Relations Commission*, 277 S.2d 827 (Florida App. 1973). While a notice of intent to quit is not required to obtain unemployment benefits where the claimant quits due to intolerable or detrimental working conditions, the case for good cause is stronger where the employee complains, asks for correction or accommodation, and employer fails to respond. *Hy-Vee Inc. v. EAB*, 710 N.W.2d 1 (Iowa 2005).

Iowa unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code §§ 96.5(1) and 96.5(2)a. A voluntary quitting of employment requires that an employee exercise a voluntary choice between remaining employed or terminating the employment relationship. *Wills v. Emp't Appeal Bd.*, 447 N.W.2d 137, 138 (Iowa 1989); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438, 440 (Iowa Ct. App. 1992). 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).

Claimant has carried his burden of proving the voluntary leaving was for good cause attributable to employer. Claimant resigned because he was written up for properly-reported absences due to his work-related injury and because employer refused to honor his restrictions. A reasonable

person would find these conditions to be so unsafe, intolerable, and detrimental as to justify resignation.

Because benefits are allowed, the other issues listed on the notice of hearing need not be addressed.

DECISION:

The October 14, 2021 (reference 01) unemployment insurance decision that allowed benefits based on a finding claimant quit work on September 5, 2021 because working conditions were detrimental to him is AFFIRMED. The separation from employment was not disqualifying. Benefits are allowed, provided claimant is not otherwise disqualified or ineligible. Employer's account is subject to charge.



Andrew B. Duffelmeyer
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December 27, 2021
Decision Dated and Mailed

abd/abd