

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MICHAEL S COLEBANK
Claimant

AMERICANA COMPANIES INC
Employer

APPEAL 19A-UI-03709-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 06/03/18
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

On May 6, 2019, Michael S. Colebank (claimant) filed an appeal from the April 30, 2019, reference 04, unemployment insurance decision that denied benefits based upon the determination he voluntarily quit work due to the terms of his employment which does not constitute good cause attributable to Americana Companies, Inc. (employer). The parties were properly notified about the hearing. A telephone hearing was held on May 29, 2019 and consolidated with the hearing for appeal 19A-UI-03927-SC-T. The claimant participated personally. The employer did not respond to the hearing notice and did not participate. No exhibits were offered into the record.

ISSUES:

Did the claimant voluntarily quit the employment with good cause attributable to the 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 Laborer beginning on March 25, 2019, and was separated from employment on April 2, 2019, when he quit. The claimant was hired to load and unload carts from the assembly line. He was given gloves as personal protective equipment (PPE) and was not told any additional PPE was required. The claimant had not been told that the job would require him to finish some assembly procedures while unloading the carts and that he would have to move the carts which would require him to regularly walk fifty feet in any direction.

The first week that the claimant worked, he had assistance from others and had no problems with completing his job duties. The claimant reported to work the second week and was unable to get assistance from his co-workers. He complained to his supervisor that the job was too stressful and physically demanding. On April 2, the claimant went to Walmart and took his blood pressure which was elevated. He contacted his supervisor and quit due to his elevated blood pressure. The claimant did not see his doctor prior to quitting and his doctor did not advise him to quit his employment.

REASONING AND CONCLUSIONS OF LAW:

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

Iowa Code section 96.5(1) provides, in relevant part:

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

...

d. The individual left employment because of illness, injury, or pregnancy upon the advice of a licensed and practicing physician, and upon knowledge of the necessity for absence immediately notified the employer, or the employer consented to the absence, and after recovering from the illness, injury, or pregnancy, when recovery was certified by a licensed and practicing physician, the individual returned to the employer and offered to perform services and the individual's regular work or comparable suitable work was not available, if so found by the department, provided the individual is otherwise eligible.

Iowa Admin. Code r. 871-24.25 provides, in relevant part:

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:

...

(20) The claimant left for compelling personal reasons; however, the period of absence exceeded ten working days.

(21) The claimant left because of dissatisfaction with the work environment.

...

(27) The claimant left rather than perform the assigned work as instructed.

Iowa Admin. Code r. 871-24.26(2) 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:

(2) The claimant left due to unsafe working conditions.

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).

The claimant has not met the burden of proof to show he left with good cause attributable to the employer. The claimant has not established that PPE beyond that provided by the employer was required in the performance of his job and that the lack of additional PPE created unsafe working conditions. The claimant left work due to illness or injury which will be accepted as aggravated by the employment solely for the purpose of unemployment insurance benefits. However, he did not leave upon the advice of a practicing physician and, as a result, cannot establish that he left with good cause attributable to the employer. Benefits are denied.

DECISION:

The April 30, 2019, reference 04, 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/scn