

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**KHAKENDRA PUN**  
Claimant

**TYSON FRESH MEATS INC**  
Employer

**APPEAL NO. 14R-UI-10393-BT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 06/22/14**  
**Claimant: Appellant (1)**

Iowa Code § 96.5-1 - Voluntary Quit

**STATEMENT OF THE CASE:**

Khakendra Pun (claimant) appealed an unemployment insurance decision dated July 11, 2014, (reference 01), which held that he was not eligible for unemployment insurance benefits because he voluntarily quit his employment with Tyson Fresh Meats, Inc. (employer) without good cause attributable to the employer. Administrative Law Judge Beth Scheetz conducted an initial hearing on this matter in appeal 14A-UI-07959-S2T wherein the claimant's appeal was determined to be untimely. The claimant appealed and the Employment Appeal Board found the appeal to be timely and remanded for a hearing on the merits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 4, 2014. The claimant participated in the hearing with his friend Malik Bennett. The employer participated through Kris Rossiter, Employment Manager. Claimant's Exhibits A through H were admitted into evidence.

**ISSUE:**

The issue is whether the claimant's separation from employment qualifies him to receive unemployment insurance benefits.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time production laborer from May 8, 2012, through his last day of work on June 4, 2014. He did not return to work after that date because he felt the work environment was unsafe. The claimant had made numerous serious complaints about his co-workers and provided a written statement to the employer each time. The employer investigated every complaint but did not advise the claimant of any action that was taken as a result of these complaints. The claimant said the employer lied and that no investigation was done because he did not see the results of the investigations.

His statement of the final incident that occurred on June 4, 2014, reads as follows: "The yelling and screaming towards my face was verbally humiliating and threatening. I find this very intensely humiliating and find it a threat towards my life." When the claimant was questioned as

to the threat to his life, he could only recall that the co-worker said he was going to “kick his ass.” The claimant did not contact the police or human resources and did not call the corporate office hotline that was available to him.

The claimant subsequently filed a complaint with the Iowa Civil Rights Commission regarding his treatment from co-employees at work. It is unknown whether a determination has been made by that Agency but since it occurred after the fact, their actions had nothing to do with the claimant's separation from the employer.

## **REASONING AND CONCLUSIONS OF LAW:**

The issue in this case is whether the reasons for the claimant's separation from employment qualify him to receive unemployment insurance benefits. All terminations of employment are generally classified as layoffs, quits, discharges or other separations. 871 IAC 24.1(113)(a). A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer or an employer has discharged the claimant for work-connected misconduct. Iowa Code §§ 96.5-1 and 96.5-2-a.

In the case herein, the claimant initiated the separation when he refused to return to work even though continuing work was available. A voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980) and *Peck v. Employment Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant demonstrated his intent to quit and acted to carry it out by not returning to work after June 4, 2014. The employer considered the claimant to have voluntarily quit due to job abandonment.

The claimant quit due to unsafe, intolerable or detrimental working conditions. Quits due to unsafe, intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See 871 IAC 24.26(2) and (4). The test is whether a reasonable person would have quit under the circumstances. See *Aalbers v. Iowa Department of Job Service*, 431 N.W.2d 330 (Iowa 1988) and *O'Brien v. Employment Appeal Bd.*, 494 N.W.2d 660 (1993).

Ordinarily, "good cause" is derived from the facts of each case keeping in mind the public policy stated in Iowa Code § 96.2. *O'Brien v. EAB*, 494 N.W.2d 660, 662 (Iowa 1993) (citing *Wiese v. Iowa Dep't of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986)). “The term encompasses real circumstances, adequate excuses that will bear the test of reason, just grounds for the action, and always the element of good faith.” *Wiese v. Iowa Dep't of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986). “[C]ommon sense and prudence must be exercised in evaluating all of the circumstances that lead to an employee's quit in order to attribute the cause for the termination.” *Id.*

The evidence provided by the claimant does not rise to an unsafe, intolerable or detrimental work environment. “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 So.2d 827 (Florida App. 1973). The claimant said his co-worker threatened his life but the only threat he could recall was that the co-worker said he was going to “kick” his “ass.” He never contacted the police, never contacted anyone in human resources and never contacted the corporate office to complain of threats to his life, which is something a reasonable person would do if their life was threatened.

The totality of the evidence demonstrates the claimant may be overly sensitive as the same language can be found in each of his written complaints. He claims there was "abusive behavior" or that their behavior was "humiliating & disrespectful" or that the co-workers "verbally threatened" him. The claimant states, "I find this verbally humiliating and will not tolerate such hostile behavior." He said a co-worker, "violently grabbed on my shoulder" and that he found it "terribly humiliating!" The employer's explanation that each complaint was properly investigated and acted upon, and that there were other options the claimant could have taken if he was dissatisfied with the outcome of any investigation. An employer is not required to disclose disciplinary action taken with co-employees, even though the complainant might believe he is entitled to that information.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. He has not satisfied that burden. Benefits are denied.

**DECISION:**

The unemployment insurance decision dated July 11, 2014, (reference 01), is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Susan D. Ackerman  
Administrative Law Judge

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Decision Dated and Mailed

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