

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

PETER KAVULA
Claimant

YMCA
Employer

APPEAL 15A-UI-14317-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 11/29/15
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the December 21, 2015, (reference 01) unemployment insurance decision that denied benefits based upon him voluntarily quitting work without good cause attributable to the employer. The parties were properly notified of the hearing. A telephone hearing was held on January 22, 2016. The claimant participated personally. The employer, YMCA, participated through Chris Suriano and Sandy Herkenhoff.

ISSUES:

Was the claimant discharged for disqualifying job-related misconduct?
Did claimant voluntarily quit the employment with good cause attributable to employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time as a property manager from January 30, 2015, until his employment ended on December 4, 2015, when he voluntarily quit. His job duties included maintenance and upkeep for three separate properties.

On November 20, 2015, the claimant sent an email to his supervisor, Chris Suriano, stating that his last day with the company would be December 4, 2015. He stated that his resignation was due to a hostile work environment and his right knee giving him some problems and causing sleepless nights. Mr. Suriano accepted the claimant's resignation. He completed his employment on December 4, 2015.

Three days prior to the claimant tendering his resignation, he received a written reprimand from Mr. Suriano. The two, along with Ms. Herkenhoff, had a meeting where Mr. Suriano expressed some concerns about various issues that had arisen in the past few months. These issues involved the claimant continuing to violate their company policy to not jaywalk in front of their building, that Mr. Suriano had received some complaints from other staff that the claimant was not approachable and had refused to fix certain maintenance problems when approached, that

he had failed to attend or was late in attending some mandatory meetings, and that he had responded negatively to some criticism of his department when the facility underwent a review.

The claimant felt that this written reprimand was unnecessary and he disagreed with each of the issues in the reprimand. He refused to sign the written reprimand. The claimant felt that the language used in the written reprimand was hostile towards him. Claimant testified that he did not believe that Mr. Suriano or Ms. Herkenhoff were hostile towards him but that the contents of the written reprimand were hostile. The written reprimand set forth that the claimant and Mr. Suriano would meet on a weekly basis going forward to make sure the issues were being addressed and that there was no miscommunication about what was expected of the claimant.

REASONING AND CONCLUSIONS OF LAW:

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

As a preliminary matter, I find that the claimant was not discharged from employment. Claimant voluntarily quit. As such, 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).

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 intended to quit on December 4, 2015 as he communicated in his resignation that was offered to Mr. Suriano by email. After a claimant quits, the next step in the analysis is to determine whether or not the claimant left for good cause attributable to the employer.

Iowa Code § 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.

Iowa Admin. Code r. 871-24.25(28) provides:

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:

(28) The claimant left after being reprimanded.

Based on the timing in receiving the written reprimand and the claimant tendering his resignation, (three days), it is clear that the claimant quit because he did not like the contents of the written reprimand. He did not agree with the reprimand and did not sign the reprimand. The claimant's decision to quit because he did not agree with the supervisor about various issues was not for a good cause reason attributable to the employer. As such, benefits must be denied.

DECISION:

The December 21, 2015, (reference 01) unemployment insurance decision is affirmed. 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.

Dawn Boucher
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

Decision Dated and Mailed

db/pjs