

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ROOSEVELT E STROWDER
Claimant

D OF C FOODS INC
Employer

APPEAL 19A-UI-04685-CL-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 11/11/18
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

The claimant filed an appeal from the June 6, 2019, (reference 05) unemployment insurance decision that denied benefits based upon a separation from employment. The parties were properly notified about the hearing. A telephone hearing was held on July 3, 2019. Claimant participated. Employer participated through operations supervisor Josh Hutt.

ISSUE:

Did claimant voluntarily leave the employment with good cause attributable to the employer or did employer discharge the claimant for reasons related to job misconduct sufficient to warrant a denial of benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on January 10, 2019. Claimant last worked as a part-time crew member. Claimant was separated from employment on May 18, 2019, when he abandoned the job.

Employer is a McDonald's restaurant. Employer has a policy stating that two consecutive no-call/no-show absences will result in a voluntary separation from employment. The policy requires employees to notify employer at least two hours prior to the shift if they are going to be late or absent. Claimant was aware of the policy.

On approximately February 2, 2019, employer gave claimant a written warning for being absent due to being pulled over by the police on the way to work.

On approximately April 25, 2019, employer gave claimant a written warning for being tardy without giving proper notice.

On approximately May 12, 2019, employer gave claimant a written warning for a no-call/no-show absence.

On May 15, 2019, claimant was scheduled to work from 1:00 p.m. until 8:00 p.m. Claimant appeared for work, but stated he was not feeling well and asked if he could leave early. Management told claimant he could leave early, but he would be written up for an unexcused absence. Claimant got into an argument with management, but ultimately left the shift early.

On May 16, 2019, claimant was scheduled to work at 1:00 p.m. Claimant called to say he was going to be late, but he did not appear for the shift.

On May 17, 2019, claimant was scheduled to work. Before the shift began, claimant called employer and spoke with general manager Ana. Claimant asked if he was going to be terminated. Ana stated he was not, but told claimant he must be on time for work. Claimant kept attempting to discuss what happened on May 15. Ana told claimant she needed him to just appear for work. Claimant hung up the phone call and did not appear for work that day or thereafter.

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.

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. 871-24.25(27) 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:

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

In this case, claimant chose to abandon his job rather than appear for work and perform his duties as assigned. Although claimant asserts he was terminated on May 16, 2019, I find employer's testimony credible that claimant was told on May 17 that he still had a job but he hung up the phone during the conversation and did not appear for work.

Claimant failed to establish he resigned for a good cause reason attributable to employer.

DECISION:

The June 6, 2019, (reference 05) 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.

Christine A. Louis
Administrative Law Judge
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Decision Dated and Mailed

cal/scn