

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**GARETH D LARSON**  
Claimant

**WELLS FARGO BANK NA**  
Employer

**APPEAL 21R-UI-00998-AD-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 07/12/20**  
**Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quitting

**STATEMENT OF THE CASE:**

On September 15, 2020, Gareth Larson (claimant/appellant) filed a timely appeal from the Iowa Workforce Development decision dated September 14, 2020 (reference 01) that denied benefits based on a finding claimant voluntarily quit on July 1, 2020 without good cause attributable to employer.

A telephone hearing was set for November 9, 2020 at 8:30 a.m. Claimant did not follow the clear directions on the notice of hearing and register a number at which he could be reached for the hearing. After waiting 15 minutes as a courtesy to claimant, the undersigned issued a default decision.

Claimant appealed the default decision to the Employment Appeal Board (EAB). The EAB remanded for a new hearing. A telephone hearing was held on February 15, 2021. The parties were properly notified of the hearing. The claimant participated personally. Wells Fargo Bank NA (employer/respondent) participated by Hearing Representative Kellen Anderson. Loan Administration Managers Kate Logsdon and Ian Sunderman participated as witnesses for employer.

Employer's exhibits 1-5 were admitted. Official notice was taken of the administrative record.

**ISSUE(S):**

- I. Was the separation from employment 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's first day of employment was December 11, 2017. Claimant worked for employer full-time as a loan servicing specialist. Claimant's immediate supervisor was Logsdon. However, claimant reported to Sunderman while Logsdon was on leave from December 12, 2019 through April 2, 2020. The last day claimant worked on the job was May 29, 2020. Claimant separated from employment on July 1, 2020. Claimant resigned on that date.

Claimant stopped reporting for work and communicating with employer after June 5, 2020. He was scheduled to work June 8-12, June 15-19, and June 22-26. Logsdon attempted to contact claimant multiple times over this period. Claimant did not respond to these letters, as he believed it was clear that he had resigned effective May 29, 2020. Claimant sent an instant message to Logsdon at the end of the day on May 29, 2020, indicating that he was resigning. Logsdon did not receive this message and as such continued to attempt to contact claimant. Despite these repeated attempts, claimant made no effort to clarify the status of his employment. Employer finally sent claimant a letter informing him that his employment was terminated effective July 1, 2020.

Claimant stopped appearing for work because he was upset by a meeting with Logsdon and Sunderman that took place on May 20, 2020. The meeting was regarding claimant being signed on and ready to begin work each morning at his work start time. Claimant was not disciplined during this meeting and did not indicate at that time that he was going to resign.

Claimant believed Logsdon was instructing him to begin working prior to his work start time without reporting an earlier start time or being compensated for the additional time. Claimant believed this in part because employer had recently settled a class action lawsuit based on similar conduct. However, Logsdon did not instruct claimant to begin work prior to his start time nor expect him to work without compensation. Claimant did not bring these or any other concerns to management or to HR prior to resigning.

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

For the reasons set forth below, the decision dated September 14, 2020 (reference 01) that denied benefits based on a finding claimant voluntarily quit on July 1, 2020 without good cause attributable to employer is **AFFIRMED**.

Iowa Code section 96.5(1)a 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 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:

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

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:

- (3) The claimant left due to unlawful 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).

Employer has carried its burden of proving claimant's departure from employment was voluntary. However, claimant has not carried his burden of proving the voluntary leaving was for good cause attributable to employer.

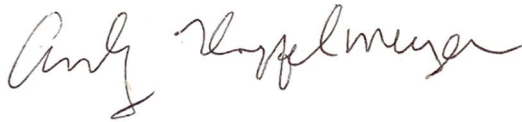
Claimant voluntarily resigned by discontinuing reporting for work or otherwise communicating with employer. He did this because he believed Logsdon was instructing him to perform work without pay. The administrative law judge finds Logsdon was not instructing claimant to perform work unlawfully but was instead reiterating that he needed to be ready to work each morning at his work start time. Furthermore, to the extent claimant believed he was being instructed to perform work unlawfully, he made no effort to bring his concerns to management so they could be addressed. He instead simply resigned and then ceased all communication with employer.

A reasonable person would not find claimant's working conditions to be so intolerable or detrimental as to justify immediate resignation. Claimant's resignation is better described as being due to dissatisfaction with the working environment. This reason is presumed to be without good cause attributable to employer and the administrative law judge finds it was without good cause in this instance. Benefits are therefore denied.

While claimant may have intended to resign via instant message at the end of May 2020, employer clearly did not receive this communication as it continued attempting to contact him for a month after. Claimant's resignation was not clear until July 1, 2020.

**DECISION:**

The decision dated September 14, 2020 (reference 01) that denied benefits based on a finding claimant voluntarily quit on July 1, 2020 without good cause attributable to employer is **AFFIRMED**. Benefits must be denied, and employer's account shall not be charged. This disqualification shall continue until claimant has earned wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is not otherwise disqualified or ineligible.



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

February 26, 2021  
Decision Dated and Mailed

abd/kmj

**Note to Claimant:**

If you disagree with this decision, you may file an appeal with the Employment Appeal Board by following the instructions on the first page of this decision. If this decision denies benefits, you may be responsible for paying back benefits already received.

Individuals who are disqualified from or are otherwise ineligible for **regular** unemployment insurance benefits but who are unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.