

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

RICKIE M PERKINS
Claimant

SIMPLY ESSENTIALS LLC
Employer

APPEAL 19A-UI-00510-H2T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 12/16/18
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the January 11, 2019, (reference 02) representative decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on February 6, 2019. Claimant participated. Employer participated through Nancy Umsted, Human Resources Generalist.

ISSUE:

Did the claimant voluntarily quit his employment without good cause attributable to the employer or was he discharged?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time as a chicken catcher beginning on July 26, 2018 through August 5, 2018 ,when he voluntarily quit.

The claimant and the other chicken catchers were picked up in Charles City at around three or four in the afternoon and transported via company truck to the farm location where they would be working that night. The shifts were long; sometimes as much as twelve or fourteen hours and all employees would be expected to work until the job was completed. After the work at the farms was completed employees would be transported back to Charles City via company truck.

The employer does not provide meals for the employees who work as chicken catchers. Each day the company truck stops to gas up and employees are allowed to purchase food and drinks for their work shift. The employer occasionally would buy employees food. The employer was never obligated to buy any employee, including the claimant, food.

On August 5, the claimant was in the truck when it stopped to gas up and to allow employees to make food purchases before driving to the farm. The claimant remained in the truck instead of going into the store. The supervisor did not purchase food for any employee that day. When the other chicken catchers and the supervisor came out of the store, the claimant was not in the truck. The employees looked for the claimant for approximately one-half hour before they found him on his cell phone calling his girlfriend to come pick him up. The claimant refused to go on to

the farm with the other workers because he was angry that the supervisor had not bought him food to eat. The claimant could have continued to work but chose not to do so.

The claimant complained to Ms. Umsted the next day who spoke to the supervisor. The supervisor indicated that he had not bought any employee food on August 5. Nowhere in the employer's policies or procedures are employees told that the employer will provide food for them when they work. Ms. Umsted never told the claimant he was discharged, but that the company considered him to have quit when he refused to continue working his assigned duties on August 5 and walked off the job. The employer offered the claimant another position, illustrating their desire to keep him as an employee, but claimant refused the position working in the plant as the shift conflicted with his school schedule.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment without good cause attributable to the employer.

At no time was the claimant ever told he was discharged. The claimant simply chose to discontinue working. This case is properly analyzed as a voluntary quit, not a discharge.

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(6) 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:

(6) The claimant left as a result of an inability to work with other employees.

Iowa Admin. Code r. 871-24.25(22) 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:

(22) The claimant left because of a personality conflict with the supervisor.

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.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). 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).

The employer had never promised employees, including the claimant, that they would provide or pay for meals while the claimant worked. The employer was under no obligation to provide or pay for a meal for the claimant on August 5, 2018. The claimant walked away from the job site and refused to continue working. His actions demonstrate his intent to quit his job. His quitting because the supervisor would not buy him a meal is not good cause attributable to the employer for quitting the employment. There is no credible evidence that the supervisor was treating the claimant any differently than any other employee. While claimant's decision to quit may have been based upon good personal reasons it was not a good-cause reason attributable to the employer for leaving the employment. Benefits are denied.

DECISION:

The January 11, 2019 (reference 02) decision is affirmed. The claimant voluntarily left his 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.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/rvs