

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JERMAH L BELL

Claimant

GREYSTONE MANUFACTURING LLC

Employer

APPEAL 19A-UI-07007-AW-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 08/11/19

Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

Iowa Admin. Code r. 871-24.25(4) – VQ – Three no call-no show absences

STATEMENT OF THE CASE:

Claimant/appellant filed an appeal from the August 27, 2019 (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified of the hearing. A telephone hearing was held on September 26, 2019, at 3:00 p.m. Claimant participated. Employer participated through Sherry Ault, Human Resources Manager. No exhibits were admitted.

ISSUE:

Whether claimant's separation was a voluntarily quit without 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 as a full-time assembler from April 23, 2017 until his employment with Greystone Manufacturing, LLC ended on August 13, 2019. (Ault Testimony) Claimant's schedule was Saturday through Wednesday from 6:00 a.m. until 2:00 p.m. (Claimant Testimony) Claimant's direct supervisor was Josh Lampe, production manager. (Ault Testimony)

Employer has a policy that failing to report to work without notifying employer for three consecutive shifts is considered a voluntary quit. (Ault Testimony) The policy is outlined in the employee handbook. (Ault Testimony) Claimant received a copy of the handbook. (Ault Testimony)

Claimant was absent from work on Tuesday, August 6, 2019 and Wednesday, August 7, 2019 due to illness. (Claimant Testimony) Claimant notified employer of his absence prior to the beginning of his shift. (Claimant Testimony) Claimant was absent from work Saturday, August 10, 2019 through Tuesday, August 13, 2019. (Ault Testimony) Claimant did not notify employer of his absences. (Ault Testimony) On August 13, 2019, employer considered claimant to have voluntarily quit his employment for failure to report to work for three consecutive shifts without notice to employer. (Ault Testimony)

Claimant testified that there were several reasons that he quit his employment. (Claimant Testimony) Claimant believed that he was mistreated by his supervisors when they wrote him up for rule violations or instructed him on how to complete his job duties. (Claimant Testimony) Claimant injured his ankle at work in 2018, which resulted in a worker's compensation claim. (Claimant Testimony) Claimant was experiencing pain and numbness in his wrist. (Claimant Testimony) Claimant has not sought medical treatment for his wrist and did not inform employer of the issue. (Claimant Testimony) Claimant believes he was promised promotions that he did not receive. (Claimant Testimony) Employer informed claimant of available positions but did not make any promises that claimant would receive the positions. (Claimant Testimony) Notwithstanding claimant's complaints, he testified that he would return to work at Greystone Manufacturing. (Claimant Testimony)

Claimant's job was not in jeopardy when he stopped reporting to work. (Ault Testimony) There was continuing available to claimant. (Ault Testimony)

REASONING AND CONCLUSIONS OF LAW:

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

Iowa Code § 96.5(1) provides: An individual shall be disqualified for benefits, if the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

A voluntary quitting means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer and requires an intention to terminate the employment. *Wills v. Emp't Appeal Bd.*, 447 N.W. 2d 137, 138 (Iowa 1989). 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); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992). 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). Where a claim gives numerous reasons for leaving employment the agency is required to consider all stated reasons which might combine to give the claimant good cause to quit in determining any of those reasons constitute good cause attributable to the employer. *Taylor v. Iowa Dep't of Job Serv.*, 362 N.W.2d 534 (Iowa 1985).

Iowa Admin. Code r. 871-24.25(4) 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:

(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

It is the duty of the administrative law judge, as the trier of fact, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *Id.* In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other evidence you believe; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *Id.*

The findings of fact show how I have resolved the disputed factual issues in this case. I assessed the credibility of the witnesses who testified during the hearing, considering the applicable factors listed above, and using my own common sense and experience. I find the claimant's testimony regarding his reasons for quitting to be inconsistent and less credible than the employer's testimony.

Claimant voluntarily quit his employment with Greystone Manufacturing, LLC when he failed to report to work and did not notify employer for three consecutive shifts in violation of company rule. Claimant provided multiple reasons for quitting his job, but none of them constitute good cause attributable to the employer. Claimant has not met his burden of proving he voluntarily quit his employment for good cause attributable to employer. Benefits are denied.

DECISION:

The August 27, 2019 (reference 01) unemployment insurance decision is affirmed. Claimant voluntarily quit his employment without good cause attributable to employer. Benefits are denied until claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Adrienne C. Williamson
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Decision Dated and Mailed

acw/rvs