

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

GARY A TRESLAN
Claimant

TYSON FRESH MEATS INC
Employer

APPEAL NO. 18A-UI-04151-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/11/18
Claimant: Appellant (1)

Iowa Code § 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated April 2, 2018, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on April 26, 2018. Claimant participated. Employer participated by Katie Schoepske. Claimant's Exhibits A-C were admitted into evidence.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on January 3, 2018. Claimant voluntarily quit his job on or around March 8, 2018, when he did not respond to employer's request to return to work after a one month leave of absence ended on February 16, 2018.

Claimant has a number of ailments not resulting from work but that were exacerbated at work. Claimant has multiple sclerosis and a weak bladder and frequently got cold at work. Claimant forwarded to employer a work release on June 20, 2017, that stated claimant was to work in 50-70 degree temps. Claimant normally worked in sub 50 degree temperatures, but employer saw that claimant was able to dress warmly. Claimant never did forward information to employer a doctor's excuse regarding his multiple sclerosis and need to use the restroom frequently.

Claimant received a leave of absence from employer because he had health difficulties while at work. Claimant became cold at work, soiled himself on multiple occasions, and had to be taken to the nurse's office multiple times. On January 16, 2018, claimant was granted a one month leave of absence to attend to his medical issues. Employer sent a 72 hour notice to claimant after his leave of absence had expired, and claimant did not respond to the notice. On March 8, 2018, employer determined that claimant's lack of any response constituted a quit.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 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.

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because he was not healthy enough to continue work.

Ordinarily "good cause" is derived from the facts of each case keeping in mind the public policy stated in Iowa Code Section 96.2. *O'Brien v. EAB* 494 N.W.2d 660, 662 (Iowa 1993) (citing *Wiese v. IA Dept. of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986)). "The term encompasses real circumstances, adequate excuses that will bear the test of reason, just grounds for the action, and always the test of good faith." *Wiese v. IA Dept. of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986). "Common sense and prudence must be exercised in evaluating all of the circumstances that led to an employee's quit in order to attribute the cause for the termination." *Id.* In this matter, claimant's general health does not appear to have been very good. Claimant stated that employer tried to help claimant with his need for warmth after claimant brought in the medical excuse requesting that claimant be kept warm. Claimant never did forward to employer any further medical documentation such that employer could make necessary allowances. Absent employer having direct medical knowledge of the need to give additional accommodations, claimant's quit is not attributable to employer.

DECISION:

The decision of the representative dated April 2, 2018, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed

bab/scn