

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DENNIS J SMITH
Claimant

CROP PRODUCTION SERVICES INC
Employer

APPEAL 21A-UI-08318-LJ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 01/03/21
Claimant: Appellant (2)

Iowa Code § 96.5(1) – Voluntary Quit from Employment

STATEMENT OF THE CASE:

On March 19, 2021, the claimant, Dennis J. Smith, filed an appeal from the March 16, 2021 (reference 01) unemployment insurance decision that denied benefits based upon a determination that claimant voluntarily quit his employment for personal reasons. The parties were properly notified of the hearing. A telephonic hearing was held at 3:00 p.m. on Friday, June 4, 2021. The claimant, Dennis J. Smith, participated. The employer, Crop Production Services, Inc., participated through witness Courtney Britt, Associate Human Resources Generalist; and hearing representative Thomas Kuiper represented the employer. No exhibits were offered or admitted into the record.

ISSUE:

Did the claimant voluntarily quit his employment?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant has been employed with this employer as a seasonal truck driver, working full-time hours during the season, since March 12, 2012. Claimant is currently employed by the employer in this capacity.

Prior to opening his claim for benefits effective January 3, 2021, claimant last reported for work on December 10, 2020. Claimant was laid off for the season at that time. Claimant admits that he made comments to coworkers along the lines of, "I don't know if I'm coming back," as the hours were getting long for him. However, he denies ever telling the employer he was quitting. He had no conversations with his supervisor or anyone in Human Resources in which he expressed an intent to end his employment.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant did not voluntarily quit his employment. Benefits are allowed.

Iowa Code §96.5(1) provides:

An individual shall be disqualified for benefits:

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:

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...

The burden of proof rests with the employer to show that the claimant voluntarily left the employment. *Irving v. Empl. App. Bd.*, 15-0104, 2016 WL 3125854, (Iowa June 3, 2016).

It is the duty of the administrative law judge as the trier of fact in this case, 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 believable evidence; 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.*

After assessing the credibility of the witnesses who testified during the hearing, considering the applicable factors listed above, and using her own common sense and experience, the administrative law judge finds claimant's testimony more reliable than Britt's testimony. Claimant adamantly denies he told Campbell or anyone else that he was quitting, and the employer did not present a firsthand witness to refute this testimony or any documentation of claimant's alleged quit. Additionally, the fact that claimant is currently working for the employer undercuts the employer's contention that claimant retired from employment.

Here, the employer bears the burden of proving that claimant quit the employment. The employer has not presented sufficient credible evidence to meet that burden. Therefore, the administrative law judge finds that claimant did not quit his employment. Rather, he was simply laid off for the season. Benefits are allowed, provided claimant is otherwise eligible.

DECISION:

The March 16, 2021 (reference 01) unemployment insurance decision is reversed. Claimant did not quit his employment. Benefits are allowed, provided he is otherwise eligible.



Elizabeth A. Johnson
Administrative Law Judge
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June 18, 2021
Decision Dated and Mailed

lj/scn