

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

GABRIEL Y MANYIEL
Claimant

APPEAL 20A-UI-06762-ED-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

TYSON FRESH MEATS INC
Employer

**OC: 05/26/19
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.3(7) – Overpayment of Benefits

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the June 17, 2020 (reference 03) unemployment insurance decision that denied benefits based upon her voluntarily quitting work without good cause attributable to the employer. The parties were properly notified of the hearing. A telephone hearing was held on July 29, 2020 at 11:00 AM. The claimant, Gabriel Y Manyiel participated personally. The employer, Tyson Fresh Meats Inc did not participate. Claimant's Exhibits 1-5 were admitted. The administrative law judge took official notice of the claimant's administrative records.

ISSUES:

Did claimant voluntarily quit the employment with good cause attributable to employer?
Is the claimant overpaid benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time in the production line. His job was to drop gooseneck. He began working for the employer on June 3, 2019. Claimant's last day physically worked on the job was April 24, 2020. Claimant's direct supervisor's first name was Anthony. Claimant voluntarily quit on May 15, 2020 when he chose not to return to work.

Claimant felt that his working conditions were unsafe due to the Coronavirus pandemic and his risk of possible infection. Claimant is a higher risk person due to his underlying medical issues. See Claimant's Exhibit 1. During April 2020, claimant learned that several of his co-workers who worked the same line as he worked had tested positive for Covid-19. On May 1, 2020, the Dakota City Tyson plant where claimant worked was closed for a deep cleaning. Initially, the plant was to be closed for four days from Friday, May 1 through Monday, May 4. However, the plant reopening was delayed until May 7, 2020 to allow for additional deep cleaning and Covid-19 test results. On May 11, 2020, claimant was tested for Covid-19. See Exhibit 2. He was asymptomatic at that time. On May 15, 2020, claimant received notice that his test result was

positive for Covid-19 and claimant was instructed by his physician to quarantine for fourteen days. See Exhibit 3. As of May 29, 2020, 786 active Covid-19 cases were reported at the Dakota City plant location. See Exhibit 4. Because of his concerns regarding the high numbers of positive cases at the Dakota City plant, his own underlying health condition, and his personal contraction of Covid-19, claimant chose to voluntarily quit.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

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.

Claimant had an intention to quit and carried out that intention by not returning to work. As such, 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).

"Good cause attributable to the employer" does not require fault, negligence, wrongdoing or bad faith by the employer. *Dehmel v. Employment Appeal Bd.*, 433 N.W.2d 700, 702 (Iowa 1988)("[G]ood cause attributable to the employer can exist even though the employer is free from all negligence or wrongdoing in connection therewith"); *Shontz v. Iowa Employment Sec. Commission*, 248 N.W.2d 88, 91 (Iowa 1976)(benefits payable even though employer "free from fault"); *Raffety v. Iowa Employment Security Commission*, 76 N.W.2d 787, 788 (Iowa 1956)("The good cause attributable to the employer need not be based upon a fault or wrong of such employer."). Good cause may be attributable to "the employment itself" rather than the employer personally and still satisfy the requirements of the Act. *Raffety*, 76 N.W.2d at 788 (Iowa 1956).

Claimant contends that he voluntarily quit due to intolerable working conditions, or unsafe working conditions, because of the widespread infection rate of Covid-19 at his place of employment. Claimant established that even though the plant closed from May 1 through May 7 for deep cleaning and testing, the Covid-19 infection rate continued to rise. Claimant was notified of his own positive test results on May 15. Despite sanitization efforts, 786 employees were actively Covid-19 positive by May 29. As such, if claimant establishes that he left due to intolerable or detrimental or unsafe working conditions, benefits would be allowed.

Generally, notice of an intent to quit is required by *Cobb v. Employment Appeal Board*, 506 N.W.2d 445, 447-78 (Iowa 1993), *Suluki v. Employment Appeal Bd.*, 503 N.W.2d 402, 405 (Iowa 1993), and *Swanson v. Employment Appeal Bd.*, 554 N.W.2d 294, 296 (Iowa Ct. App. 1996). These cases require an employee to give an employer notice of intent to quit, thus giving the employer an opportunity to cure working conditions. Accordingly, in 1995, the Iowa Administrative Code was amended to include an intent-to-quit requirement. The requirement was only added, however, to rule 871-24.26(6)(b), the provision addressing work-related health problems. No intent-to-quit requirement was added to rule 871-24.26(4), the intolerable working conditions provision. Our supreme court concluded that, because the intent-to-quit requirement

was added to 871-24.26(6)(b) but not 871-24.26(4), notice of intent to quit is not required for intolerable working conditions. *Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005).

Iowa Admin. Code r. 871-24.26(4) provides:

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:

(4) The claimant left due to intolerable or detrimental working conditions.

Iowa Admin. Code r. 871-24.26(2) provides:

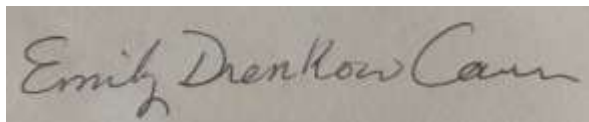
Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(2) The claimant left due to unsafe working conditions.

The standard of what a reasonable person would have believed under the circumstances is applied in determining whether a claimant left work voluntarily with good cause attributable to the employer. *O'Brien v. Employment Appeal Bd.*, 494 N.W.2d 660 (Iowa 1993). In this case, a reasonable person would have believed that claimant's working conditions were unsafe, intolerable and detrimental to the claimant due to continuing rise of the Covid-19 active cases. As such, the claimant's voluntary quitting was for a good-cause reason attributable to the employer according to Iowa law. Benefits are allowed, provided the claimant is otherwise eligible. Because benefits are allowed, the issues of overpayment of benefits and overpayment of Federal Pandemic Unemployment Compensation are moot.

DECISION:

The June 17, 2020 (reference 03) unemployment insurance decision is reversed. Claimant voluntarily quit employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.



Emily Drenkow Carr
Administrative Law Judge

August 13, 2020
Decision Dated and Mailed

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