

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DORN L REIGHARD
Claimant

APPEAL 20A-UI-16005-S2-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**GREGG YOUNG CHEVROLET OF
NORWALK**
Employer

**OC: 08/23/20
Claimant: Appellant (1)**

Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed an appeal from the November 18, 2020, (reference 01) unemployment insurance decision that denied benefits based upon his voluntary quit. The parties were properly notified about the hearing. A telephone hearing was held on January 29, 2021. Claimant Dorn L. Reighard participated and testified with his attorney Stuart Higgins. Employer Gregg Young Chevrolet of Norwalk participated through human resources employee Jodi Mumma and general manager Gary Burton. Claimant's Exhibits A and B were admitted. Employer's Exhibit 1 was admitted.

ISSUE:

Did claimant voluntarily quit the employment with 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 full-time as a detail lead from October 10, 2016, and was separated from employment on September 2, 2020, when he quit.

Claimant was frustrated with parts of his job, including that he believed he was being underpaid for detail work and repairs he performed on the car wash and that other employees were taking tickets for work that he could have completed. These frustrations were not enough for claimant to leave his employment.

In June 2020, claimant's schedule was switched from day hours to evening hours. When hired, claimant was not guaranteed he would only be assigned daytime hours.

Claimant went on vacation in August 2020 for two weeks. He did not return to work following his vacation, and Burton reached out to him on August 26, 2020 with no response received. On August 27, 2020, claimant notified employer that he had back pain and needed to see a doctor and would return to work on August 31, 2020. Burton informed claimant he needed to bring a doctor's note upon his return. Claimant did not return to work as scheduled. On September 2,

2020, Burton sent a text message to claimant and asked if he had a doctor's note to return to work and asked him to contact Mumma. Claimant called Mumma and she asked when he would be returning to work or if he was quitting work since he was not showing up for his shifts. Claimant did not raise any concerns during the call with Mumma about being underpaid or other employees taking tickets. Complainant felt badgered by the constant questions about returning to work and told Mumma and Burton he was resigning.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was without good cause attributable to the employer.

Iowa Code section 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. 871-24.26(1) 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:

(1) A change in the contract of hire. An employer's willful breach of contract of hire shall not be a disqualifiable issue. This would include any change that would jeopardize the worker's safety, health or morals. The change of contract of hire must be substantial in nature and could involve changes in working hours, shifts, remuneration, location of employment, drastic modification in type of work, etc. Minor changes in a worker's routine on the job would not constitute a change of contract of hire.

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. 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:

(21) The claimant left because of dissatisfaction with the work environment.

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). 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).

While claimant's work hours changed in June 2020, he was not guaranteed daytime hours upon his hire. Claimant had concerns that he was not being properly paid for his work or getting enough work, but the reason for his leaving was due to his frustration with the employer's multiple inquiries about returning to work. It is reasonable for an employer to inquire when and if an employee will return to work after missing several scheduled shifts. While claimant's leaving may have been based upon good personal reasons, it was not for a good-cause reason attributable to the employer according to Iowa law. Benefits are denied.

DECISION:

The November 18, 2020, (reference 01) unemployment insurance 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.



Stephanie Adkisson
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

February 16, 2021
Decision Dated and Mailed

sa/ol

Note to Claimant:

This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits due to disqualifying separations, but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.