

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

BENJAMIN C BENDLIN
Claimant

PURE FISHING INC
Employer

APPEAL 20A-UI-04033.J1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 03/29/20
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

On May 14, 2020, the claimant filed an appeal from the May 4, 2020, (reference 01) unemployment insurance decision that denied benefits based on voluntarily quitting his employment without good cause. The parties were properly notified about the hearing. A telephone hearing was held on May 27, 2020. Claimant participated. Employer did not participate.

ISSUE:

Did the claimant voluntarily quit his job without good cause?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer in, 2014. Claimant last worked as full-time on August 1, 2019. Claimant was separated from employment on August 1, 2019, when claimant submitted his resignation. Claimant worked mainline machine operator. Claimant would run various machines and operate a fork truck. Some of the machines he operated were extruders that melted plastic with a furnace, creating additional heat in the plant. Claimant informed his supervisor and human resources three or four times in July that the work area was extremely hot. Claimant requested that the plant he work in be shut down and that he would not have to work when it was extremely hot in the plant., Claimant testified that other manufacturing plants in the Spirit Lake area would shut down in extreme heat.

Claimant was told by his employer to hydrate and go to the air conditioned cafeteria when he needed to cool off. Claimant testified that he did not want to go to the cafeteria while his machines were running as he could have been written up for creating too much waste materials. Claimant said that going from the plant into the air conditioning was such an extreme that he felt it made him sick.

Claimant went to his physician for regular checkup and was told to hydrate and to try to avoid the extreme heat. Claimant was not advised by his physician to quit.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant was not discharged but is separated from the employment without good cause attributable to the employer.

Iowa Code section 96.5(1)d 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. But the individual shall not be disqualified if the department finds that:

d. The individual left employment because of illness, injury or pregnancy upon the advice of a licensed and practicing physician, and upon knowledge of the necessity for absence immediately notified the employer, or the employer consented to the absence, and after recovering from the illness, injury or pregnancy, when recovery was certified by a licensed and practicing physician, the individual returned to the employer and offered to perform services and the individual's regular work or comparable suitable work was not available, if so found by the department, provided the individual is otherwise eligible.

Iowa Admin. Code r. 871-24.25 provides in relevant part:

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.

Iowa Admin. Code r. 871-24.26 provides in relevant part:

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(6)b 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:

(6) Separation because of illness, injury, or pregnancy.

b. Employment related separation. The claimant was compelled to leave employment because of an illness, injury, or allergy condition that was attributable to the employment. Factors and circumstances directly connected with the employment which caused or aggravated the illness, injury, allergy, or disease to the employee which made it impossible for the employee to continue in employment because of serious danger to the employee's health may be held to be an involuntary termination of employment and constitute good cause attributable to the employer. The claimant will be eligible for benefits if compelled to leave employment as a result of an injury suffered on the job.

In order to be eligible under this paragraph "b" an individual must present competent evidence showing adequate health reasons to justify termination; before quitting have informed the employer of the work-related health problem and inform the employer that the individual intends to quit unless the problem is corrected or the individual is reasonably accommodated. Reasonable accommodation includes other comparable work which is not injurious to the claimant's health and for which the claimant must remain available.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). The employer has the burden of proving that a claimant's departure from employment was voluntary. *Irving v. Emp't Appeal Bd.*, 883 N.W.2d 179 (Iowa 2016). "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". *Id.* (citing *Cook v. Iowa Dept. of Job Service*, 299 N.W.2d 698, 701 (Iowa 1980)).

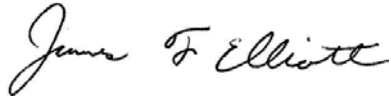
Claimant did not leave work due to the advice from any medical provided. Claimant has not proven that his quit was attributable due to his employer due to a medical condition.

Claimant has also not proven the working conditions were intolerable or detrimental. The employer offered the claimant the opportunity to use the air-conditioning in the cafeteria when needed. Claimant declined this accommodation.

Claimant left due to dissatisfaction with the work environment. While claimant had good personal reasons, his voluntary quit is not attributable to his employer.

DECISION:

The May 4, 2020, reference 01, decision is affirmed. The claimant voluntarily quit the employment on August 1, 2019 without good cause attributable to the employer. The claimant is disqualified for benefits until he has worked in and been paid wages for insured work equal to 10 times his weekly benefit amount. The claimant must meet all other eligibility requirements. The employer's account shall not be charged.



Jim Elliott
Administrative Law Judge

June 2, 2020
Decision Dated and Mailed

je/scn

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>.