

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

COREY D YOUNG

Claimant

APPEAL NO. 15A-UI-11904-TN-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

IOWA-ILL TAYLOR INSULATION INC

Employer

OC: 01/04/15

Claimant: Appellant (1)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Corey Young, the claimant, filed a timely appeal from a representative's decision dated October 21, 2015 (reference 03) which denied unemployment insurance benefits, finding that the claimant left his employment on September 23, 2015 but did not establish could cause for quitting. After due notice was provided, a telephone hearing was held on November 10, 2015. The claimant participated. The employer participated by Mr. Jamie Daprile, President/Abatement Division.

ISSUE:

At issue is whether the claimant left employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having considered all of the evidence in the record, the administrative law judge finds: Corey Young was employed by Iowa-Illinois Taylor Industries, Inc. from April 25, 2014 until September 23, 2015; when he quit employment. Mr. Young was employed as a full-time abatement worker for the company and was paid by the hour. His last supervisor was Justin Baxa.

Mr. Young left his employment on September 23, 2015 after informing the employer by text message on September 22, 2015 that he was "quitting."

Mr. Young left his employment with Iowa-Illinois Taylor Insulation, Inc. for a number of reasons. Although Mr. Young liked the work itself, he felt that his immediate supervisor, Mr. Baxa, was harassing him on the job and would continue to do so. Mr. Young was also dissatisfied because a company manager had questioned him about the source of his hard hat and use of a hat light. Mr. Young also believed that other employees were receiving raises more often than the claimant was receiving. Mr. Young was most recently dissatisfied because the company had been unwilling to replace his work boots, and another manager had not returned his message about the matter.

The primary source of Mr. Young's dissatisfaction was the manner in which he believed he was being treated by his immediate supervisor, Justin Baxa. Mr. Young had previously complained to Mr. Daprile and to another manager, Darren Parchette, about the treatment that he was receiving from Mr. Baxa. Mr. Young complained that Mr. Baxa had used inappropriate language and unreasonably berated him for no good reason, and that Mr. Baxa had on one occasion inappropriately sent a text message that was inappropriate and confusing. Mr. Young was dissatisfied with Mr. Parchette's visit to the job site in response to his initial complaint, and requested a meeting to resolve the matter. Mr. Young met with Mr. Daprile and Mr. Parchette, and the claimant expressed his concerns about the treatment that he was receiving from Mr. Baxa during the meeting. Based upon the claimant's complaints, the company met with Mr. Baxa about his demeanor and required the supervisor to review the company's policies and harassment training films. Mr. Young was allowed to take vacation time and initially reassigned to training and other types of work. Shortly after returning from his authorized vacation, Mr. Young was assigned to a remediation project; under the supervision of Mr. Baxa. Although it appears that Mr. Baxa soon resumed his questionable behavior towards Mr. Young, Mr. Young did not again complain to management about Mr. Baxa's harassing and taunting behavior. The claimant believed that because the company had reassigned him back to work with Mr. Baxa, when he had previously complained about Mr. Baxa's conduct, Mr. Young concluded that it was in his own best interests to quit employment. The claimant did not inform the employer of why he had quit until he had done so.

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the evidence in the record establishes that Mr. Young quit employment, with Iowa-Illinois Taylor Insulation, Inc., with good cause attributable to the employer. It does not.

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(22) 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:

(22) The claimant left because of a personality conflict with the supervisor.

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.

In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in a relationship of an employee with the employer from whom the employee has separated. See 871 IAC 24.25. The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. See Iowa Code Section 96.6-2. Leaving because of dissatisfaction with the work environment is not good cause. See 871 IAC 24.25(1). Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. See 871 IAC 24.26(3), (4).

The test as to whether an employee has left due to intolerable or detrimental working conditions is whether a reasonable person would have quit under the circumstances. See Aalbers v. Iowa Department of Job Services, 431 N.W.2d 330 (Iowa 1988) and O'Brien v. Employment Appeal Board, 494 N.W.2d 660 (Iowa 1993).

In the case at hand, Mr. Young had experienced treatment from his immediate supervisor that the claimant reasonably believed was inappropriate and had complained to company management about the treatment he was receiving from his immediate supervisor. In response to Mr. Young's complaint, management met with Mr. Young and took reasonable action to resolve Mr. Young's complaints. The claimant was allowed to take vacation time and assigned to other work or training, and the claimant's supervisor was questioned about the matter and required to take a remedial type training on employee harassment. Both the claimant and the employer believed at that time that the matter had been addressed. Later the claimant was reassigned to work once again under Mr. Baxa, based upon staffing and business needs. Although Mr. Young once again experienced conduct that was harassing and intimidating from his supervisor, Mr. Young did not inform the company, as he had done before, prior to quitting his employment. As the company was unaware that Mr. Young was having additional problems and Mr. Young had not informed them, the employer had no opportunity to act on Mr. Young's behalf before he quit employment. The claimant has, therefore, not established good cause for quitting attributable to the employer. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, and he is otherwise eligible.

DECISION:

The representative's decision dated October 21, 2015 (reference 03) is affirmed. The claimant left the employment without good cause attributable to the employer. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, and he is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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