

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MICHAEL R HOUK
Claimant

AGREQUIP INC
Employer

APPEAL 21A-UI-09210-S2-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/22/20
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.4(3) – Ability to and Availability for Work

STATEMENT OF THE CASE:

The claimant filed an appeal from the March 17, 2021, (reference 02) unemployment insurance decision that denied benefits based upon his voluntary quit. The parties were properly notified of the hearing. A telephone hearing was held on June 16, 2021, and was consolidated with the hearing for appeal 21A-UI-09209-S2-T. Claimant Michael R. Houk participated and testified. Employer Agrequip, Inc. participated through owner Marvin Bricker and plant manager Ron McDowell.

ISSUE:

Did claimant voluntarily leave the employment with good cause attributable to the employer or did employer discharge the claimant for reasons related to job misconduct sufficient to warrant a denial of benefits?

Is the claimant able to and available for work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on November 14, 2013. Claimant worked for employer as a full-time welder until his separation from employment on August 5, 2020.

The employer has a policy in place which states that if employees are a no-call/no-show for three consecutive work days, they are considered to have abandoned their jobs and are separated from employment. Claimant was aware of the policy

Claimant has underlying health conditions that put him at high risk of complications if he contracts COVID 19. Claimant was concerned for his health, so on May 22, 2020, his medical provider gave employer a note stating claimant should not work for 30 days. Employer allowed claimant to take a leave of absence. Claimant provided notes to employer each month indicating he was not able to return to work. The last note stated claimant should remain out of

work until July 21, 2021. Claimant did not provide any additional notes to employer after this time because he was not able to get into see his doctor.

Employer expected claimant to return on July 22, 2020, as it did not receive an updated doctor's note excusing him from work. Claimant was absent from work without notifying employer for his next three scheduled shifts, on July 22, 23, and 27, 2020. Claimant never returned to work. Continuing work was available for claimant and his job was not in jeopardy. Claimant has not yet been released to return to work by his medical provider.

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 §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(4) 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 § 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 § 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:

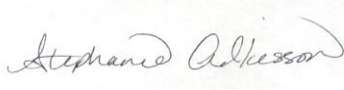
(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

The 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).

An employer is entitled to expect its employees to report to work as scheduled or to be notified when and why the employee is unable to report to work. Inasmuch as the claimant failed to report for work or notify the employer for three consecutive workdays in violation of the employer policy, the claimant is considered to have voluntarily left employment without good cause attributable to the employer.

DECISION:

The March 17, 2021, (reference 02) unemployment insurance decision is affirmed. Claimant voluntarily left the employment without good cause attributable to the employer. Benefits are withheld until such time as 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

June 30, 2021
Decision Dated and Mailed

sa/lj