

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MIKE LOOSE
Claimant

APPEAL NO. 17A-UI-07743-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MCF OPERATING LLC
Employer

OC: 07/09/17
Claimant: Appellant (2)

Iowa Code Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Mike Loose filed a timely appeal from the July 26, 2017, reference 01, decision that disqualified him for benefits and that relieved the employer's account of liability for benefits, based on the claims deputy's conclusion that Mr. Loose voluntarily quit on May 17, 2017 without good cause attributable to the employer. After due notice was issued, a hearing was held on August 17, 2017. Mr. Loose participated and presented additional testimony through Scott Morrill and Roy Thacker. Jared Lee represented the employer. Exhibits 1, 2 and A were received into evidence.

ISSUE:

Whether Mr. Loose separated from the employment for a reason that disqualifies him for unemployment insurance benefits or that relieves the employer's account of liability for benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Mike Loose was employed by MCF Operation, L.L.C., as a full-time production employee from 1982 until May 17, 2017, when he voluntarily quit by walking off the job. Mr. Loose's shift started at 5:30 a.m. and generally ended sometime between 4:00 p.m. and 8:00 p.m., when the day's production was complete. Mr. Loose's work days were Monday through Friday. Mr. Loose also frequently worked on Saturdays. Mr. Loose's immediate supervisor was Line Lead David Gregory.

Mr. Loose's sudden departure from the workplace on May 17, 2017 was in response to verbal abuse that Mark Bence, Operations Manager, directed at Mr. Loose on the morning of May 17, 2017. On that morning, Mr. Loose was assigned to operate a bottle filling machine. While operating the machine, Mr. Loose observed that the machine he was assigned to operate to fill bottles was damaging the bottles. Mr. Loose stopped the machine so that he could investigate the cause of the damage to the bottles. Mr. Bence approached and asked Mr. Loose what was going on. Mr. Bence yelled at Mr. Loose that the filler machine needed to be up and running. Mr. Bence accused Mr. Loose of having the machine off "all the time." Mr. Loose asked Mr. Bence why he was yelling at him. Mr. Loose explained to Mr. Bence that the machine needed to be off for the moment because it was causing heavy damage to the bottles. Mr. Bence told Mr. Loose to get the machine running and they would take a look at it. When Mr. Loose restarted the machine, the machine caused even greater damage to the bottles it was filling. In response, Mr. Loose again stopped the machine. Mr. Bence again approached and asked Mr. Loose why he had stopped the machine. Mr. Bence yelled, "You need to get it going

now!" Mr. Bence's yelling at Mr. Loose had attracted the attention of other employees in the vicinity. Mr. Loose had worked under Mr. Bence for decades. Mr. Bence had long been in the habit of communicating with subordinates in a verbally abusive, demeaning manner by yelling at the targeted employee in the presence of other employees. Mr. Bence's verbally abusive behavior had been a factor in other employees quitting their employment with MCF Operating.

On the morning of May 17, Mr. Loose was not in a frame of mind to further endure such abuse. Mr. Loose had just returned to work after an illness. Mr. Loose has a chronic health condition that is aggravated by stress. In addition, Mr. Loose was under stress due to multiple serious family matters. Rather than further endure Mr. Bence's verbal abuse, Mr. Loose told Mr. Bence on May 17 that he was not going to take it. Line Lead David Gregory came to the machine and noted the damage to the bottles. Mr. Bence continued to yell at Mr. Loose, "Get the filler going! I told you to get it going!" At that point, Mr. Loose had had enough. Mr. Loose told Mr. Bence that if Mr. Bence thought he could run the machine, then he could run it. Mr. Loose told Mr. Bence that he was going next door, meaning that he was going to the human resources office in the building next door. Mr. Bence replied, "Go!" Mr. Loose clocked out. Mr. Loose left clothing and personal tools in his locker.

Mr. Loose went to office of Jared Lee, Human Resources Manager, and waited for Mr. Lee to become available. Mr. Lee had just joined the company in October 2016. Mr. Loose was still upset by Mr. Bence's conduct at the time he met with Mr. Lee. Mr. Loose told Mr. Lee that he could no longer take the stress of Mr. Bence yelling at him and others. Mr. Loose told Mr. Lee that he was under a lot of stress and did not want to snap. Mr. Lee asked Mr. Loose what he wanted to do. Mr. Loose told Mr. Lee, "I can't go back there with that going on." Mr. Loose repeated a number of times that he could no longer work with Mr. Bence yelling. Mr. Lee asked a number of times what he could do for Mr. Loose. Mr. Loose told Mr. Lee that he was leaving. Mr. Loose departed from the workplace and went home.

A short while after Mr. Loose got home, he received a phone call from Mr. Lee. Mr. Lee stated that he had reviewed the matter with the business owner and that the pair had decided to deem the employment done due to job abandonment. Mr. Lee told Mr. Loose that the employer would continue to pay him his wages through the end of June.

Subsequent to Mr. Loose's separation from the employment, other employees complained to Mr. Lee about Mr. Bence and this prompted the employer to discipline Mr. Bence to prompt a change in Mr. Bence's approach to communicating with employees.

REASONING AND CONCLUSIONS OF LAW:

A discharge is a termination of employment initiated by the employer for such reasons as incompetence, violation of rules, dishonesty, laziness, absenteeism, insubordination, or failure to pass a probationary period. 871 IAC 24.1(113)(c). A quit is a separation initiated by the employee. 871 IAC 24.1(113)(b). In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 698, 612 (Iowa 1980) and *Peck v. EAB*, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

In considering an understanding or belief formed, or a conclusion drawn, by an employer or claimant, the administrative law judge considers what a reasonable person would have concluded under the circumstances. See *Aalbers v. Iowa Department of Job Service*, 431 N.W.2d 330 (Iowa 1988) and *O'Brien v. Employment Appeal Bd.*, 494 N.W.2d 660 (1993).

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 698, 612 (Iowa 1980) and *Peck v. EAB*, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See 871 IAC 24.26(4). The test is whether a reasonable person would have quit under the circumstances. See *Aalbers v. Iowa Department of Job Service*, 431 N.W.2d 330 (Iowa 1988) and *O'Brien v. Employment Appeal Bd.*, 494 N.W.2d 660 (1993). Aside from quits based on medical reasons, prior notification of the employer before a resignation for intolerable or detrimental working conditions is not required. See *Hy-Vee v. EAB*, 710 N.W.2d 213 (Iowa 2005).

The weight of the evidence in the record establishes a voluntary quit due to intolerable and detrimental working conditions. Mr. Loose was not required to endure being yelled at and publicly demeaned by Mr. Bence as a condition of the employer. The testimony of the employer, as well as the testimony of the other former employees who testified on behalf of Mr. Loose, lend additional weight to Mr. Loose's credible testimony that Mr. Bence was indeed verbally abusive toward Mr. Loose on May 17 and that it was Mr. Bence's practice to address Mr. Loose and other subordinates in a verbally abusive manner. Given the intolerable and detrimental working conditions created by Mr. Bence's conduct, a reasonable person in Mr. Loose's situation might well feel compelled to leave the employment. Mr. Loose's quit was for good cause attributable to the employer. Accordingly, Mr. Loose is eligible for benefits, provided he is otherwise eligible. The employer's account may be charged for benefits paid to Mr. Loose.

DECISION:

The July 26, 2017, reference 01, decision is reversed. The claimant voluntarily quit the employment on May 17, 2017 for good cause attributable to the employer. The claimant is eligible for benefits, provided he is otherwise eligible. The employer's account may be charged for benefits paid to the claimant.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/rvs