

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**HAROLD L RUMBAUGH**  
Claimant

**WARNICK INC**  
Employer

**APPEAL 19A-UI-02069-NM-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 02/10/19**  
**Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quit

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the February 27, 2019, (reference 01) unemployment insurance decision that denied benefits based on his voluntary quit. The parties were properly notified about the hearing. A telephone hearing was held on March 25, 2019. Claimant participated and testified. Employer participated through owner Dan Warnick.

**ISSUE:**

Was the separation a layoff, discharge for misconduct or voluntary quit without good cause attributable to the employer?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on October 27, 2014. Claimant last worked as a full-time plumber's helper. Claimant was separated from employment on February 7, 2019, when he voluntarily quit.

On January 25, 2019 claimant submitted his resignation to the employer, with an effective date of February 7, 2019. Claimant resigned because he had not gotten a reimbursement check for his cell phone at the end of 2018, as several other employees had. Claimant was told by the business co-owner that Warnick was on vacation, but he would discuss the matter with him upon his return. The reimbursements are not a guaranteed term of employment or compensation, but something Warnick does annually on a discretionary basis, depending on how often he is speaking with his employees on their personal cell phones.

According to claimant, he knew of at least one other employee who received a check, but took less calls than he did. Warnick testified that employee received a check because he rarely, if ever, failed to answer his phone, but there were multiple times he had called claimant and claimant did not answer. Warnick also noted that the two held different positions within the company. Claimant did not wait for Warnick to return and discuss the situation with him prior to leaving employment.

## 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. 871-24.25 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:

(13) The claimant left because of dissatisfaction with the wages but knew the rate of pay when hired.

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).

Claimant resigned because he was upset he did not receive reimbursement from the employer for his cell phone at the end of 2018. The reimbursements are not part of employee's pay and are at the sole discretion of the employer. Furthermore, the claimant did not give the employer a reasonable opportunity to address the situation, as he failed to wait until Warnick returned from vacation before separating from employment. 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 February 27, 2019, (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.

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Nicole Merrill  
Administrative Law Judge

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Decision Dated and Mailed

nm/rvs