

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LARRY SHUCK
Claimant

DEXTER AXLE COMPANY
Employer

APPEAL 22A-UI-00866-SN-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 10/17/21
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quit
Iowa Code § 96.5(2)a – Discharged for Misconduct

STATEMENT OF THE CASE:

The claimant filed an appeal from the December 2, 2021, (reference 01) unemployment insurance decision that denied benefits based upon her voluntary quit. The parties were properly notified about the hearing. A telephone hearing was held on January 28, 2022. The claimant participated and testified. The employer did not participate. No exhibits were received into the record.

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:

The claimant was employed full-time as a welder from June 1, 2021, and was separated from employment on September 20, 2021, when he quit.

The claimant commuted from Sutherland, Iowa to the employer's premises in Orange City, Iowa in his personal vehicle. The employer did not provide transportation to its employees.

On August 8, 2021, the claimant was convicted under Iowa Code 32J.2 for driving while under the influence of alcohol. As part of his conviction, the claimant was required to obtain and install an interlock device to gauge the alcohol content in his breath before August 18, 2021. The claimant did not obtain and install that device by that time.

The claimant continued to commute to work despite not having the interlock device installed until September 20, 2021. On that date, the claimant reasoned that he could no longer make the commute because continuing to do so would be illegal.

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:

(1) The claimant's lack of transportation to the work site unless the employer had agreed to furnish transportation.

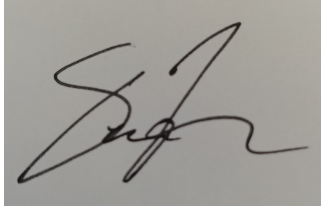
Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products 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).

The sole reason for the claimant's resignation was that he was unable to commute to the employer's worksite. The employer did not provide transport to its premises to the claimant or other employees. As a result, this reason is disqualifying under Iowa Admin. Code r. 871-24.25(1).

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 December 2, 2021, (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.

A handwritten signature in black ink on a light gray background. The signature is stylized and appears to read 'Sean M. Nelson'.

Sean M. Nelson
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515) 725-9067

February 18, 2022
Decision Dated and Mailed

smn/kmj