

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

RILEY R FULTZ
Claimant

TPI IOWA II LLC
Employer

APPEAL 19A-UI-04506-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 05/05/19
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

On June 3, 2019, Riley R. Fultz (claimant) filed an appeal from the May 24, 2019, reference 01, unemployment insurance decision that denied benefits based upon the determination he voluntarily quit employment with TPI Iowa II, LLC (employer) when he failed to report to work for three days without notification to the employer. The parties were properly notified about the hearing. A telephone hearing was held on June 27, 2019. The claimant participated personally. The employer witness that was registered for the hearing answered at the number provided but declined to participate in the hearing. The Claimant's Exhibit A was admitted into the record. The administrative law judge took official notice of the fact-finding documents.

ISSUE:

Did the claimant voluntarily quit the employment with 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 Sander on third shift beginning October 29, 2018, and his last day worked was May 2, 2019. During orientation, the employer told employees that after six attendance occurrences in a year, they would be subject to discharge. The employer's attendance policy states three days of no-call/no-show absences will be considered a voluntary quit.

Most of the claimant's attendance occurrences were during the winter and due to weather. He commuted from Des Moines, Iowa to Newton, Iowa each night and did not feel safe traveling on the interstate during winter storms. He notified the employer before the start of his shift when he was going to be absent.

On April 30, the claimant left early to go to a doctor's appointment. He notified the employer before he left. The claimant was prescribed a pain medication for his arthritis at that appointment. When he returned to work the following night, he received a written warning related to his attendance. He was told that he had four occurrences and any further incidents could result in discharge.

On May 3, the claimant took the prescribed medication and fell asleep in the afternoon. He did not wake up until midnight, after the start of his shift. He did not contact the employer because he believed that he had been discharged. The claimant did not speak to anyone in management to verify the status of his employment and he did not have any further contact with the employer after that day. The claimant was scheduled to work on Saturday, May 4, and Monday, May 6.

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. Benefits are denied.

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.

Iowa Admin. Code r. 871-24.25 provides, in relevant part:

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:

...

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

...

(33) The claimant left because such claimant felt that the job performance was not to the satisfaction of the employer; provided, the employer had not requested the claimant to leave and continued work was available.

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).

Generally, when an individual believes they are discharged from employment, but was not told so by the employer, and they discontinue reporting for work, the separation is considered a quit

without good cause attributable to the employer. Since the claimant did not follow up with management personnel or the owner, and just assumed he was fired, his failure to continue reporting to work was an abandonment of the job.

DECISION:

The May 24, 2019, reference 01, unemployment insurance decision is affirmed. The claimant voluntarily left the 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.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/scn