

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KASEY W BERKENBILE
Claimant

CLB ENTERPRISES INC
Employer

APPEAL 15A-UI-08888-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 07/05/15
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the July 31, 2015, (reference 02) unemployment insurance decision that denied benefits based upon the determination he voluntarily quit his employment due to dissatisfaction with the work environment which is not a good-cause reason attributable to the employer. The parties were properly notified about the hearing. A telephone hearing was held on August 28, 2015. Claimant Kasey Berkenbile participated on his own behalf. Employer CLB Enterprises, Inc. participated through President and Owner Sheryl Bruce and Manager Jenny Braun. Employer's Exhibit 1 was received.

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 warehouse and delivery associate beginning February 6, 2015, and was separated from employment on July 3, 2015, when he quit. The claimant worked in the warehouse of the furniture store and had issues with one of his co-workers, a salesperson named Shelly. On July 24, 2015, the claimant and Shelly had an argument in which he called her a "bitch."

On July 27, 2015, the claimant's normal Saturday to work, Shelly was also working. The claimant was the only warehouse associate scheduled to handle customer pick-ups. Generally, on Saturdays employees are not allowed to take their breaks outside of the store. Manager Jenny Braun gave the claimant special permission to go across the alley to get his lunch provided he return to assist customers when needed. The claimant was called back three times to assist with customers. The first and second instances he assisted without complaint. The third time Braun called him, the claimant began to yell at her and refused to return. Braun called the employer's President and Owner Sheryl Bruce to assist for the rest of the afternoon based on the claimant's conduct.

That evening the claimant posted a message on Facebook referencing the issue with his lunch and making derogatory comments about his co-workers. Bruce and he exchanged messages back and forth over the rest of the weekend. She told him not to come in the following day and he said he could not afford to as he needed to work. He told her to terminate his employment. She told him that she was not terminating his employment, but if he wanted to continue on Facebook he could consider himself suspended. The claimant served his suspension on Monday, June 29, 2015.

The claimant returned to work on Tuesday, June 30, 2015. Bruce had the claimant sign a warning notice that described the performance issues and expectations going forward. (Employer's Exhibit 1). A new delivery truck driver had also started that day as the other driver was leaving his employment. The new employee needed to be trained on the delivery truck and the claimant does not have a driver's license. The claimant was assigned to work in the warehouse. There was no pay or hour difference between working in the warehouse and delivering to the customers.

The claimant worked Tuesday through Thursday with no apparent issues. On Friday, July 3, 2015, the claimant quit his employment one hour before his scheduled start time. He sent a text message to Bruce and stated if this was the way he was going to be treated he was quitting. He believed that the employer started treating him poorly because it planned to terminate his employment. The claimant went in that afternoon to pick up his paycheck.

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 § 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(6), (21), (22), (27) and (28) 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:

(6) The claimant left as a result of an inability to work with other employees.

(21) The claimant left because of dissatisfaction with the work environment.

(22) The claimant left because of a personality conflict with the supervisor.

(27) The claimant left rather than perform the assigned work as instructed.

(28) The claimant left after being reprimanded.

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). The claimant's decision to quit because he did not get along with other employees, did not like his work assignment, did not agree with his reprimand, and had personality conflicts with his supervisor are not good cause reasons attributable to the employer. Benefits are denied.

DECISION:

The July 31, 2015, (reference 02) 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/pjs