

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

NATHAN S BOHN
Claimant

TPI IOWA LLC
Employer

APPEAL NO. 21A-UI-08586-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 10/25/20
Claimant: Appellant (1)

Iowa Code Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the March 22, 2021, reference 01, decision that disqualified the claimant for benefits and that stated the employer's account would not be charged for benefits, based on the deputy's conclusion that the claimant voluntarily quit on September 15, 2020 without good cause attributable to the employer. After due notice was issued, a hearing was held on June 9, 2021. The claimant participated. Danielle Williams represented the employer.

ISSUES:

Whether the claimant voluntary quit without good cause attributable to the employer.
Whether the claimant was discharged for misconduct in connection with the employment.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant, Nathan Bohn, was employed by TPI Iowa, L.L.C. as a full-time production worker. The claimant began the employment in December 2019 and last performed work for the employer on September 14, 2020. The claimant's work hours were 2:30 p.m. to 10:30 p.m., Monday through Friday. The claimant was also required to work on Saturday and/or Sunday as needed. Production Leader Andy Deraad was the claimant's immediate supervisor.

On September 14, 2020, the claimant met with the Alejandra Vega, Human Resources Supervisor, and Mr. Deraad to discuss his dissatisfaction with the employment. The claimant told the employer that he was considering resigning from the employment due because he was unhappy with the size of the production team. The claimant told the employer that he would speak with his spouse and let the employer know his decision. During the meeting, the claimant made no reference to his daughter or to his daughter having a health issue that he needed to address. Ms. Vega documented the September 14 conversation. After the claimant left work on September 14, 2020, he did not return or make further contact with the employer. Under the attendance policy the employer reviewed with the claimant at the start of the employment, an employee who is absent without notice for three days is deemed to have voluntarily quit. The employer waited a week, until September 21, 2020, for the claimant to return to the

employment. During that time, the claimant was absent in excess of three working days without notifying the employer. When the claimant did not return by September 21, 2020, the employer deactivated the claimant's employee badge. The claimant would need to use the employee badge to gain access to the workplace.

REASONING AND CONCLUSIONS OF LAW:

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).

Iowa Admin. Code r. 871-24.25(4) 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:

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

...

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

It is the duty of the administrative law judge as the trier of fact in this case, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa Ct. App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *Id.* In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other believable evidence; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *Id.*

The weight of the evidence in the record establishes a voluntary quit without good cause attributable to the employer. The claimant and the employer provided dramatically differing testimony. The administrative law judge found the employer's testimony to be reliable and credible and found the claimant's testimony not to be reliable or credible. The claimant initially

alleged in his testimony that he needed to go off work so his daughter could undergo heart surgery. The claimant later amended his testimony to indicate his daughter needed a medical check-up related to her heart. The claimant mentioned neither of these concerns in his written appeal. In the written appeal, the claimant asserted he needed to go off work because he tested positive for COVID-19 and because his daughter has asthma and fell ill. The claimant alleged in his testimony that a supervisor was bullying him about returning to work and threatening to end the employment. The claimant alleged that his badge was deactivated within a couple days of him going off work, but concedes he did not want to make the trip to the workplace to see whether the badge was indeed deactivated at that early date. On the other hand, the employer's testimony did not include the internal contradictions or evolving aspect that characterized the claimant's testimony. Though the employer witness lacked personal knowledge to a significant extent, she testified from a business record made by her human resources colleague contemporaneous to that colleague's September 14, 2020 meeting with the claimant. The employer provided pertinent dates and details. The employer testified from personal knowledge regarding the claimant's badge not being deactivated until a week after the claimant went off work. The employer witness answered the administrative law judge's questions and the claimant's questions with marked candor.

The weight of the evidence establishes that the claimant voluntarily quit effective September 14, 2020 by thereafter ceasing to report to work and ceasing contact with the employer. The weight of the evidence indicates the claimant met with the employer on September 14 to express his dissatisfaction with the work environment and at that time explicitly stated he would be making a decision about whether to return to the employment. The claimant's subsequent discontinuation of contact with the employer and the several consecutive no-call/no-show absences were sufficient to communicate that he had voluntarily quit the employment. The weight of the evidence does not support the claimant's allegation of a bullying supervisor and does not otherwise establish good cause attributable to the employer. The claimant is disqualified for benefits until the claimant has worked in and been paid wages for insured work equal to 10 times the claimant's weekly benefit amount. The claimant must meet all other eligibility requirements. The employer's account shall not be charged for benefits.

DECISION:

The March 22, 2021, reference 01, decision is affirmed. The claimant voluntarily quit the employment without good cause attributable to the employer. The claimant is disqualified for benefits until the claimant has worked in and been paid wages for insured work equal to 10 times the claimant's weekly benefit amount. The claimant must meet all other eligibility requirements. The employer's account shall not be charged.



James E. Timberland
Administrative Law Judge

September 22, 2021
Decision Dated and Mailed