

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DAVID L JOHNSON
Claimant

APPEAL 21A-UI-12201-CS-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

INLAND TRUCK PARTS CO
Employer

**OC: 03/14/21
Claimant: Appellant (1)**

Iowa Code §96.5(2)a-Discharge/Misconduct
Iowa Code §96.5(1)- Voluntary Quit

STATEMENT OF THE CASE:

On May 5, 2021, the claimant/appellant filed an appeal from the May 4, 2021, (reference 01) unemployment insurance decision that denied benefits based on claimant voluntarily quitting for personal reasons. The parties were properly notified about the hearing. A telephone hearing was held on July 21, 2021. Claimant participated at the hearing. Employer participated through General Manager, Michael Cooper.

ISSUE:

Did claimant voluntarily quit the employment with good cause attributable to employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on November 7, 2005. Claimant last worked as a full-time service manager. Claimant was separated from employment on May 15, 2020, when claimant resigned his position.

Claimant has chronic obstructive pulmonary disease (COPD). Claimant last worked on March 18, 2020, his employer decided to send all workers that were considered high risk if they contracted COVID-19 home for a period of time. During this period the employer paid the employees they sent home. On May 15, 2020, the employer called the claimant and recalled him back to work. During the phone call the claimant told the employer he would not be returning due to his health condition. Claimant did not request the employer make an accommodation for his condition so he could continue working. Claimant did not inform the employer that he intended to quit prior to his resignation. The employer did not have an available accommodation for the claimant if he would have requested an accommodation.

The employer was implementing social distancing, increased sanitization measures by wiping down counters and work areas frequently. The employer also limited areas where customers

could enter into the building. The employer did not require employees and customers to wear masks while in the building.

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 Admin. Code r. 871-24.26(6)b provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(6) Separation because of illness, injury, or pregnancy.

b. Employment related separation. The claimant was compelled to leave employment because of an illness, injury, or allergy condition that was attributable to the employment. Factors and circumstances directly connected with the employment which caused or aggravated the illness, injury, allergy, or disease to the employee which made it impossible for the employee to continue in employment because of serious danger to the employee's health may be held to be an involuntary termination of employment and constitute good cause attributable to the employer. The claimant will be eligible for benefits if compelled to leave employment as a result of an injury suffered on the job.

In order to be eligible under this paragraph "b" an individual must present competent evidence showing adequate health reasons to justify termination; before quitting have informed the employer of the work-related health problem and inform the employer that the individual intends to quit unless the problem is corrected or the individual is reasonably accommodated. Reasonable accommodation includes other comparable work which is not injurious to the claimant's health and for which the claimant must remain available.

Claimant has the burden of proof to establish that the injury, illness or aggravation is work-related. *Shontz v. Iowa Employment Sec. Commission*, 248 N.W.2d 88, 91 (Iowa 1976). In 1995, the Iowa Administrative Code was amended to include an intent-to-quit requirement added to rule 871-24.26(6)(b), the provision addressing work-related health problems. *Hy-Vee, Inc. v. Emp't Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005). A claimant must inform the employer that the individual intends to quit unless the problem is corrected or the individual is reasonably accommodated. See Iowa Admin. Code r. 871-24.26(6)b. Reasonable accommodation includes other comparable work which is not injurious to the claimant's health and for which the claimant must remain available. *Id.* Iowa Code § 216.6 (previously 601A.6) requires employers to make "reasonable accommodations" for employees with disabilities. Reasonable accommodation is required only to the extent that refusal to provide some accommodation would be discrimination itself. Reasonableness is a flexible standard measured in terms of an employee's needs and desires and by economic and other realities faced by the employer. *Sierra v. Emp't Appeal Bd.*, 508 N.W.2d 719 (Iowa 1993). See also *Foods, Inc. v. Iowa Civil Rights Comm'n*, 318 N.W.2d 162 (Iowa 1982) and *Cerro Gordo Care Facility v. Iowa Civil Rights Comm'n*, 401 N.W.2d 192 (Iowa 1987).

Claimant has not met his burden of proof to establish the voluntary quit was attributable to the employer under Iowa Admin. Code r. 871-24.26(6)b. Claimant did not notify employer that he intended to quit unless the work-related health problems were addressed. Additionally claimant

did not request an accommodation from the employer prior to his resignation. Since the claimant did not meet the requirements of Iowa Admin. Code r. 871-24.26(6)b his separation was not for a good-cause reason attributable to the employer according to Iowa law. Benefits are denied.

DECISION:

The May 4, 2021 (reference 01) unemployment insurance decision is affirmed. Claimant voluntarily quit the employment without good cause attributable to employer. Unemployment benefits are withheld in regards to this employer until such time as claimant is deemed eligible.



Carly Smith
Administrative Law Judge
Unemployment Insurance Appeals Bureau

July 29, 2021
Decision Dated and Mailed

cs/ol

NOTE TO CLAIMANT: This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits, but who are unemployed or continue to be unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>. If this decision becomes final or if you are not eligible for PUA, you may have an overpayment of benefits.

ATTENTION: On May 11, 2021, Governor Reynolds announced that Iowa will end its participation in federal pandemic-related unemployment benefit programs effective June 12, 2021. The last payable week for PUA in Iowa will be the week ending June 12, 2021. You may be eligible for benefits incurred prior to June 12, 2021. Additional information can be found in the press release at <https://www.iowaworkforcedevelopment.gov/iowa-end-participation-federal-unemployment-benefit-programs-citing-strong-labor-market-and>.