

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

68-0157 (9-06) - 3091078 - EI

ALEC IHDE
Claimant

APPEAL NO. 18A-UI-11044-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

LUMBER LIQUIDATORS INC
Employer

OC: 10/14/18
Claimant: Respondent (1)

Section 96.5-1 - Voluntary Quit
Section 96.3-7 – Overpayment

STATEMENT OF THE CASE:

Lumber Liquidators (employer) appealed a representative's October 31, 2018, decision (reference 01) that concluded Alec Ihde (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for November 28, 2018. The claimant participated personally. The employer participated by Michael Owens, Regional Manager, and Kathleen Tomlinson, Human Resources Manager. Exhibit D-1 was received into evidence. The claimant offered and Exhibit 1 was received into evidence.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on September 5, 2017, as a full-time store manager. The employer has a zero tolerance for workplace violence.

The claimant repeatedly complained to the person who hired him (the former regional manager), the current regional manager, and the human resources manager, about the assistant store manager's (ASM) behavior. The ASM told the claimant he was "tired of his shit" and would do anything to have the claimant leave the store. The ASM was upset that he was passed over twice for the store manager position. Other employees recognized his antics and refused his offer of money to tell lies about the claimant.

On October 16, 2018, the claimant attempted to defuse the ASM's anger. The ASM responded by saying he was tired of dealing with the claimant and they should go in the warehouse and settle things like men. The claimant felt threatened and afraid. After the ASM left the property and the claimant closed the store, the claimant sent a text to the employer resigning.

The claimant filed for unemployment insurance benefits with an effective date of October 14, 2018. He received \$1,940.00 in benefits after the separation from employment. The employer provided the name and number of Elaine Woolaver as the person who would participate in the

fact-finding interview on October 30, 2018. The fact finder called Ms. Woolaver but she did not have any information about the separation other than what the employer provided in the documents. Ms. Woolaver did not have firsthand knowledge of the events leading to the separation. She did not provide the name and number of an employee with firsthand information for rebuttal.

REASONING AND CONCLUSIONS OF LAW:

For the following reasons the administrative law judge concludes the claimant voluntarily quit work with good cause attributable to the employer.

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. 871-24.26(4) 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:

(4) The claimant left due to intolerable or detrimental working conditions.

The law presumes a claimant has left employment with good cause when he quits because of intolerable or detrimental working conditions. 871 IAC 24.26(4). The claimant notified the employer about the ASM's behavior and the hostile work environment. The ASM's behavior escalated until he threatened the claimant with bodily harm. The claimant subsequently quit due to his intolerable and detrimental working conditions. The claimant is eligible to receive unemployment insurance benefits, provided he meets all the qualifications.

DECISION:

The representative's October 31, 2018, decision (reference 01) is affirmed. The claimant voluntarily quit with good cause attributable to the employer. Benefits are allowed, provided claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/rvs