

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

NASRELDIN ABDALLA
Claimant

QPS EMPLOYMENT GROUP, INC.
Employer

APPEAL 20A-UI-10513-HP-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 05/24/20
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.5(2) – Discharge Due to Misconduct
Iowa Code § 96.5(1)j – Timely Request for Another Job Assignment

STATEMENT OF THE CASE:

Claimant Nasreldin Abdalla filed an appeal from an August 20, 2020 (reference 01) unemployment insurance decision that denied benefits based upon his voluntarily quitting work without good cause attributable to the employer, QPS Employment Group, Inc. (“QPS”). Notices of hearing were mailed to the parties’ last known addresses of record for a telephone hearing scheduled for October 13, 2020. Abdalla appeared and testified. Mai Lor represented QPS. Krystal Hauersperger appeared and testified on behalf of QPS. Exhibit 1 was admitted into the record. I took administrative notice of the claimant’s unemployment insurance benefits records maintained by Iowa Workforce Development.

ISSUE:

Was the separation a layoff, discharge for misconduct or voluntary quit without good cause?

FINDINGS OF FACT:

Abdalla has worked for QPS on several occasions. He most recently commenced full-time employment with QPS on June 3, 2020. QPS placed Abdalla at Cole’s Quality Foods in packaging. Abdalla was responsible for packaging bread produced in the facility. Hannah Shoemaker was his direct supervisor.

Abdalla testified he worked shoulder to shoulder with employees at Cole’s Quality Foods. Cole’s Quality Foods provided the employees with masks to wear while working. Abdalla did not request any additional protective equipment during the three days he worked for QPS.

Abdalla reported he did not feel safe working in close proximity to his coworkers at Cole’s Quality Foods. Abdalla testified he has diabetes and he also cares for his mother one day per week who also has diabetes and high cholesterol. Abdalla’s mother does not live with him.

On June 5, 2020, Abdalla called Shoemaker. Shoemaker documented Abdalla told her he wanted to quit his position with Cole’s Quality Foods because he did not feel comfortable with the people

he was working with and he did not want to work until Covid-19 ended. QPS accepted Abdalla's resignation.

Abdalla testified he called QPS on June 5, 2020 and spoke to someone. He did not recall the name of the person he spoke to. Abdalla reported he requested another job assignment where he did not have to work around other people.

Hauersperger testified QPS records when an employee requests another job assignment. Hauersperger reported there was no record Abdalla requested another job assignment. She also testified she spoke with Shoemaker and Shoemaker told her Abdalla never told Shoemaker he was quitting because of his personal health condition or that of his mother.

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: . . . If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department." The Iowa Supreme Court has held a "voluntary quit" means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer." *Wills v. Emp't Appeal Bd.*, 447 N.W.2d 137, 138 (Iowa 1989). A voluntary quit requires "an intention to terminate the employment relationship accompanied by an overt act carrying out the intent." *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438, 440 (Iowa Ct. App. 1992). "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).

871 Iowa Administrative Code 24.25(21) 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 following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

24.25(21) The claimant left because of dissatisfaction with the work environment.

871 Iowa Administrative Code 24.26(2) and (4) provide:

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:

24.26(2) The claimant left due to unsafe working conditions.

24.26(4) The claimant left due to intolerable or detrimental working conditions.

If the claimant establishes the claimant left due to intolerable or detrimental working conditions, benefits are allowed. Generally, notice of an intent to quit is required by *Cobb v. Employment Appeal Board*, 506 N.W.2d 445, 447-78 (Iowa 1993), *Suluki v. Employment Appeal Board*, 503 N.W.2d 402, 405 (Iowa 1993), and *Swanson v. Employment Appeal Board*, 554 N.W.2d 294, 296 (Iowa Ct. App. 1996). These cases require an employee to give an employer notice of intent to quit, thus giving the employer an opportunity to cure working conditions. The Iowa Administrative

Code was amended in 1995 to include an intent-to-quit requirement. The requirement was only added, however, to 871 Iowa Administrative Code 24.26(6)(b), the provision involving work-related health problems. No intent-to-quit requirement was added to 871 Iowa Administrative Code 24.26(4), the intolerable working conditions provision. The Iowa Supreme Court concluded that, because the intent-to-quit requirement was added to 871 Iowa Administrative Code 24.26(6)(b) but not 871 Iowa Administrative Code 24.26(4), notice of intent to quit is not required for intolerable working conditions. *Hy-Vee, Inc. v. Emp't Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005).

“Good cause attributable to the employer” does not require fault, negligence, wrongdoing or bad faith by the employer. *Dehmel v. Emp't Appeal Bd.*, 433 N.W.2d 700, 702 (Iowa 1988) (“good cause attributable to the employer can exist even though the employer is free from all negligence or wrongdoing in connection therewith”); *Shontz v. Iowa Emp't Sec. Comm'n*, 248 N.W.2d 88, 91 (Iowa 1976)(benefits payable even though employer “free from fault”); *Raffety v. Iowa Emp't Sec. Comm'n*, 76 N.W.2d 787, 788 (Iowa 1956) (“good cause attributable to the employer need not be based upon a fault or wrong of such employer”). Good cause may be attributable to “the employment itself” rather than the employer personally and still satisfy the requirements of the Act. *Raffety*, 76 N.W.2d at 788 (Iowa 1956). Therefore, the claimant is not required to give the employer any notice with regard to the alleged intolerable or detrimental working conditions prior to quitting. However, the claimant must prove the claimant’s working conditions were intolerable or detrimental.

Abdalla has worked for QPS several times. He most recently accepted full-time employment and started work for QPS at Cole’s Quality Foods on June 3, 2020. Abdalla only worked three days before he quit. Abdalla testified he quit because he did not feel safe working at Cole’s Quality Foods because he worked close to the other employees and because he has diabetes and his mother, who he cares for one day per week, also has diabetes and high cholesterol. Huersperger testified Shoemaker spoke with Abdalla and he told her he was quitting because he did not feel comfortable working with people and he did not want to work until Covid-19 ended. This raises issues with credibility.

During the hearing I assessed the credibility by considering whether their testimony was reasonable and consistent with other evidence I believe, whether they had made inconsistent statements, their “appearance, conduct, memory and knowledge of the facts,” and their interest in the case. *State v. Frake*, 450 N.W.2d 817, 819 (Iowa 1990). I do not find Abdalla’s testimony reasonable and consistent with the other evidence I believe. Abdalla only worked for QPS for three days. He knew about his risk for developing Covid-19 before he accepted the position. Cole’s Quality Foods provided the employees with masks. Abdalla did not request any other personal protective equipment.

During the hearing, Abdalla could not recall the name of his supervisor or the name of the person he spoke with on June 5, 2020 when he stated he did not wish to return. Shoemaker was Abdalla’s direct supervisor and she spoke with him on June 5, 2020. QPS follows a procedure of coding in the computer if an employee requests another job assignment. Huersperger reported Shoemaker had not entered that Abdalla requested another job assignment. Huersperger spoke with Shoemaker and Shoemaker denied Abdalla told her he was quitting because of his personal or his mother’s health conditions. I find Abdalla voluntarily quit his employment with QPS. I do not find Abdalla has established the working conditions at Cole’s Quality Foods were unsafe, intolerable, or detrimental and rose to the level where a reasonable person would feel compelled to quit and do not constitute a good cause reason attributable to QPS for Abdalla to have quit. I do not find he requested another job assignment. Benefits are denied.

DECISION:

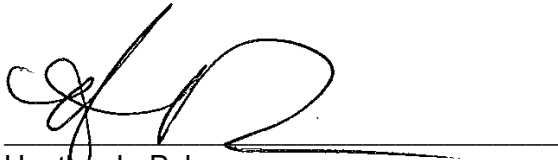
Regular Unemployment Insurance Benefits Under State Law

The August 20, 2020 (reference 01) unemployment insurance decision denying unemployment insurance benefits is affirmed. Claimant voluntarily quit the claimant's employment with the employer on June 5, 2020. Unemployment insurance benefits are denied until the claimant has worked in and earned wages for insured work equal to ten times the claimant's weekly benefit amount after the claimant's separation date, and provided the claimant is otherwise eligible.

Pandemic Unemployment Assistance ("PUA") Under the Federal CARES Act

As we discussed during the hearing, even though the claimant is not eligible for regular unemployment insurance benefits under state law, the claimant may be eligible for federally funded unemployment insurance benefits under the CARES Act. Section 2102 of the CARES Act creates a new temporary federal program called Pandemic Unemployment Assistance ("PUA") that may provide up to 39 weeks of unemployment benefits. An individual receiving PUA benefits may also receive an additional \$600 weekly benefit amount under the Federal Pandemic Unemployment Compensation ("FPUC") program if the individual is eligible for PUA benefits for the week claimed. The FPUC additional \$600 payment per week ended as of July 25th in Iowa. This means the \$600 weekly additional benefit stopped and at this time, no extension or change to the program has been made by Congress at this time. This does mean that you will see a corresponding decrease in your weekly benefit amount. The FPUC payments are not a state benefit and Iowa is unable to make any changes to the availability of this benefit. If a change takes place to this benefit in the future, IWD will share on the IWD website and social media. This decision does not address whether the claimant is eligible for PUA. If the claimant wishes to receive PUA benefits, the claimant must apply for PUA, as noted in the instructions provided in the "Note to Claimant" below:

Note to Claimant: If this decision determines you are not eligible for regular unemployment insurance benefits and 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 currently 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>.** This decision denies benefits. If this decision becomes final or if you are not eligible for PUA, you may have an overpayment of benefits.



Heather L. Palmer
Administrative Law Judge
Unemployment Insurance Appeals Bureau
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515) 478-3528

October 14, 2020
Decision Dated and Mailed

hlp/scn