

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JOE DENTON
Claimant

MODERN PIPING INC
Employer

APPEAL 20A-UI-08347-HP-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 11/10/19
Claimant: Appellant (2)**

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Claimant Joe Denton filed an appeal from a July 13, 2020 (reference 01) unemployment insurance decision that denied benefits for voluntarily quitting his work with Modern Piping, Inc. (“Modern Piping”) on May 11, 2020. The parties were properly notified of the hearing. A telephone hearing was held on August 27, 2020. Denton appeared and testified. Pat Oldham appeared and testified on behalf of Modern Piping. Sara Tack appeared on behalf of Modern Piping, but did not testify. 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:

On November 3, 2017, Denton commenced full-time employment as a pipefitter with Modern Piping. At some point, he was subject to layoff on one or more occasions. On July 31, 2019, Denton resumed his employment with Modern Piping. He was again subject to layoff in November 2017. On April 1, 2020, he returned to work following a layoff. Denton’s immediate supervisor was Jamie Randall.

Denton was feeling ill and believed he might have Covid-19. Denton called Randall on May 7, 2020, to report he was ill, he was going to the doctor, and he would be absent that day. Denton testified Randall told him he could be absent that day. Denton was working four ten-hour shifts per week. May 7, 2020 was a Thursday. Denton was not scheduled to work on May 8, 2020.

Denton attended an appointment with Florita Henderson, M.D. on May 7, 2020. Dr. Henderson took a swab from Denton and told him his results would be back on May 9, 2020, a Saturday. Denton did not receive the results on Saturday. Denton was scheduled to work on May 11, 2020. He contacted Randall on Saturday and told him he had not received his test results back. Denton testified Randall told him “no news is good news, come back to work on Monday.”

On May 11, 2020, Randall went to work. While he was working, Randall started to feel feverish and hot. He called Dr. Henderson's office to inquire about his test results. The office was closed and he received the answering service.

Earlier that morning Randall held a meeting with Denton and other employees and informed them they should not use their cellular telephones while working. Denton reported when he called Dr. Henderson Randall started screaming and yelling at him for using his cellular telephone. Denton testified he told Randall he was going home sick. Oldham testified Denton cleaned out his work area on May 11, 2020, and Modern Piping considered he voluntarily quit his employment. Oldham relayed he had not received any information that Denton had been sick the week before or on May 11, 2020, with symptoms of Covid-19, or that Denton discussed his illness with Randall. Randall did not appear at hearing to rebut Denton's testimony.

The next day Denton spoke to his coworker, Cody Barton, and Barton asked him what he wanted to do with his welding hood and personal items. Denton stated he was confused and asked what was going on and Barton stated he had been laid off. Denton testified he called Mark Lemmie, another supervisor for Modern Piping and Lemmie told him he was being laid off. Denton testified he had been subject to layoff several times before. Oldham testified he had not heard Denton had been laid off.

REASONING AND CONCLUSIONS OF LAW:

Modern Piping avers Denton voluntarily quit his employment. Denton contends he was told he was being subject to layoff. 871 Iowa Administrative Code 24.1(113) characterizes the different types of employment separations as follows:

Separations. All terminations of employment, generally classifiable as layoffs, quits, discharges, or other separations.

a. Layoffs. A layoff is a suspension from pay status initiated by the employer without prejudice to the worker for such reasons as: lack of orders, model changeover, termination of seasonal or temporary employment, inventory-taking, introduction of laborsaving devices, plant breakdown, shortage of materials; including temporarily furloughed employees and employees placed on unpaid vacations.

b. Quits. A quit is a termination of employment initiated by the employee for any reason except mandatory retirement or transfer to another establishment of the same firm, or for service in the armed forces.

c. Discharge. A discharge is a termination of employment initiated by the employer for such reasons as incompetence, violation of rules, dishonesty, laziness, absenteeism, insubordination, failure to pass probationary period.

d. Other separations. Terminations of employment for military duty lasting or expected to last more than 30 calendar days, retirement, permanent disability, and failure to meet the physical standards required.

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). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). The employer has the burden of proving that a claimant's departure from employment was voluntary. *Irving v. Emp't Appeal Bd.*, 883 N.W.2d 179 (Iowa 2016).

871 Iowa Administrative Code 24.25(21), (22), and (28), provide:

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.


24.25(22) The claimant left because of a personality conflict with the supervisor.

24.25(28) The claimant left after being reprimanded.

Denton testified on May 11, 2020, Randall became angry with him when he was using his cellular telephone to call his doctor regarding his Covid-19 symptoms and test. Denton told Randall he was ill and going home. Oldham did not have any knowledge that Randall had been ill with symptoms consistent with Covid-19. Randall did not testify at hearing to rebut Denton's testimony. I find Denton told Randall he was leaving work on May 11, 2020 because he was ill. Denton testified his coworker told him he was being subject to layoff and Lemmie, a supervisor, also told him he was being subject to layoff. Oldham did not rebut Denton's testimony. Denton had been subject to layoff several times before. I do not find Denton voluntarily quit his employment with Modern Piping, but that he was told he was being laid off. Benefits are granted.

DECISION:

The July 13, 2020 (reference 01) unemployment insurance decision denying unemployment insurance benefits is reversed in favor of the claimant/appellant. Benefits are allowed, provided the claimant is otherwise eligible.

A handwritten signature in black ink, appearing to read 'H. Palmer', is written over a horizontal line.

Heather L. Palmer
Administrative Law Judge
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August 31, 2020
Decision Dated and Mailed

hlp/scn