

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**STEVE J GROVE**  
Claimant

**TIMPTE INC**  
Employer

**APPEAL 21A-UI-00926-DG-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 09/13/20  
Claimant: Appellant (2)**

Iowa Code § 96.5(1) – Voluntary Quitting  
Iowa Admin. Code 871-24.26(4) – Intolerable Work Conditions

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated November 23, 2020, (reference 01) that held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on February 12, 2021. Claimant participated, and was represented by Christopher O. Donohoe, Attorney at Law. Employer failed to respond to the hearing notice and did not participate. The administrative law judge took official notice of the administrative record including the fact-finding documents.

**ISSUES:**

The issue in this matter is whether claimant quit for good cause attributable to employer?

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on August 26, 2020. Claimant voluntarily left the employment on that date because his work environment had become intolerable.

Claimant began working for employer as a full-time sales representative on May 18, 2020. Claimant has had two heart attacks and he has respiratory issues. He is also immunocompromised. Claimant knew there would be some travel involved with his employment, but he believed he would be working with responsible people who would attempt to follow CDC guidelines in regards to covid-19 mitigation.

Employer required claimant to travel out of state frequently in June, 2020. Claimant requested to spend more time in the office making phone calls in July, 2020. Many of the customers' clients claimant had met would not wear masks, and they did not take social distancing seriously. Claimant believed he could be more productive making sales by phone, and he could avoid unnecessary face to face contact to avoid exposure to covid-19.

In late August, 2020 claimant was working in the office making sales calls. Claimant's manager told claimant to get out of the office, and make face to face sales. Claimant explained that he

was having success conducting sales over the phone, and he could do his work in a safer more convenient manner. Claimant was told that he had to make face to face contact with perspective clients, and that he was not allowed to conduct business in the office.

On August 26, 2020 claimant decided he had to leave the employment. Employer ignored his concerns about being exposed to covid-19, and his ideas and concerns had went unnoticed by employer. Claimant informed employer that he was resigning effective immediately on August 26, 2020.

## **REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge holds that the evidence has established that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because his work environment had become intolerable.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits:

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.

Iowa Admin. Code r. 871-24.26(3) 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:

**(3)** The claimant left due to unlawful working conditions.

A notice of an intent to quit had been required by *Cobb v. Emp't Appeal Bd.*, 506 N.W.2d 445, 447-78 (Iowa 1993), *Suluki v. Emp't Appeal Bd.*, 503 N.W.2d 402, 405 (Iowa 1993), and *Swanson v. Emp't Appeal Bd.*, 554 N.W.2d 294, 296 (Iowa Ct. App. 1996). Those cases required an employee to give an employer notice of intent to quit, thus giving the employer an opportunity to cure working conditions. However, in 1995, the Iowa Administrative Code was amended to include an intent-to-quit requirement. The requirement was only added to rule 871-24.26(6)(b), the provision addressing work-related health problems. No intent-to-quit requirement was added to rule 871-24.26(4), the intolerable working conditions provision. Our supreme court concluded that, because the intent-to-quit requirement was added to Iowa Admin. Code r. 871-24.26(6)(b) but not 871-24.26(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).

Claimant left the employment because his work environment was intolerable, his separation from employment was for a good-cause reason attributable to the employer. Benefits are allowed.

*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 due to disqualifying separations, 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>. If this decision becomes final, or if you are not eligible for PUA, you may have an overpayment of benefits.

**DECISION:**

The decision of the representative dated November 23, 2020, (reference 01) is reversed. Unemployment insurance benefits are allowed provided claimant is otherwise eligible.



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Duane L. Golden  
Administrative Law Judge

February 26, 2021  
Decision Dated and Mailed

dlg/scn