

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KEITH TAYLOR
Claimant

TOMETICH INCORPORATED
Employer

APPEAL 22A-UI-03736-DH-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 01/02/22
Claimant: Appellant (1)

Iowa Code § 96.5(1) - Voluntary Quit
Iowa Code § 96.5(2)a - Discharge for Misconduct
Iowa Admin. Code r. 871-24.26(6) - Inability to Work with other Employees

STATEMENT OF THE CASE:

Keith Taylor, claimant, filed an appeal from the January 20, 2022, (reference 01) unemployment insurance decision that denied benefits based upon his voluntary quit. The parties were properly notified about the hearing. A telephone hearing was held on March 11, 2022. Claimant participated and testified. Employer, Tometich Incorporated, did not participate. Judicial notice was taken of the administrative file, including the employer's response/submissions in fact-finding, of which, claimant was noticed prior to hearing.

ISSUE:

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

FINDINGS OF FACT:

Having heard the testimony and reviewed the evidence in the record, the undersigned finds:

Claimant was employed full-time as a driver from August 10, 2021, and was separated from employment on November 22, 2021, his last day of work, when he quit after becoming frustrated with his working conditions.

Claimant got into a couple of confrontations with other coworkers. Claimant felt he was being disrespected and was not happy about the situation. Claimant admits to stating, "I want to punch you" to a co-worker. Fact-finding included statements from Mr. Collins and Mr. Baughman. Employer has claimant threatening a coworker by stating he was going to punch the coworker. Claimant was brought to another room to calm down and talk about what was happening, but claimant only talked about not be afraid to go to jail and then walked off the job site, not to return. Employer took this as a quit. Claimant stated he quit, left, drove away and before getting home, returned to see if he could take it back, but they wouldn't let him.

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 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. 871-24.25 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 employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

Iowa Admin. Code r. 871-24.25(6) provides:

- (6) The claimant left as a result of an inability to work with other employees.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "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). A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980).

The decision in this case rests, at least in part, on the credibility of the witnesses. It is the duty of the administrative law judge as the trier of fact in this case, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *Id.* In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other believable evidence; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *Id.*

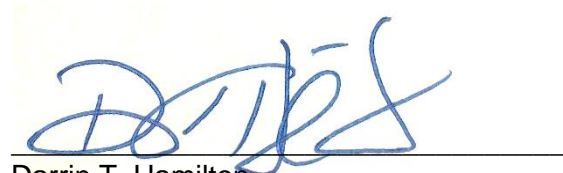
After assessing the credibility of the witness who testified during the hearing and considering the applicable factors listed above, and using his own common sense and experience, the

administrative law judge finds the employer's version of events to be more credible than the claimant's and his recollection of those events. Claimant had several inconsistencies in his explanation compared to the employer statements in fact finding.

Claimant was not able to get along with a few co-workers and threatened violence. When management was trying to sort things out, claimant quit by leaving the work site and driving away. In one of claimant's versions of events, he admits to this, but then adds that he came back to see if he quit or was fired. Claimant did not return. One would understand the difference between being told you are fired and saying I quit, and this is one of the areas of testimony that was incredible. While claimant's leaving may have been based upon good personal reasons, it was not for a good-cause reason attributable to the employer according to Iowa law. Benefits are denied.

DECISION:

The January 20, 2022, (reference 01) unemployment insurance decision is **AFFIRMED**. The claimant voluntarily left his employment without good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.



Darrin T. Hamilton
Administrative Law Judge

March 29, 2022
Decision Dated and Mailed

dh/mh