

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JAMES A BORK
Claimant

AGRI STAR MEAT & POULTRY LLC
Employer

APPEAL 15A-UI-07707-CL-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/29/15
Claimant: Respondent (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The employer filed an appeal from the June 26, 2015, (reference 02) unemployment insurance decision that allowed benefits. The parties were properly notified about the hearing. A telephone hearing was held on August 3, 2015. Claimant did not participate. Employer participated through Payroll/Human Resources Assistant, Laura Roney.

ISSUE:

Did claimant voluntarily quit the employment with good cause attributable to employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as a computer programmer from April 28, 2015, and was separated from employment on May 6, 2015, when he resigned.

Claimant stopped at the front desk on his way out the door and verbally resigned. He stated the job was not what he was looking for. Claimant was hired to do computer programming and design graphs and charts for a new chicken line. A few days after starting the job, claimant told his supervisor, Jason Manning, he was bored and asked for additional job duties. Manning then assigned claimant to do work on the production floor. Claimant never complained to anyone in the Human Resources department about the lack of work or newly assigned job duties. The beef department may have had additional computer work for claimant.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant did voluntarily leave the employment with good cause attributable to the employer.

Iowa Code § 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(1) 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:

(1) A change in the contract of hire. An employer's willful breach of contract of hire shall not be a disqualifiable issue. This would include any change that would jeopardize the worker's safety, health or morals. The change of contract of hire must be substantial in nature and could involve changes in working hours, shifts, remuneration, location of employment, drastic modification in type of work, etc. Minor changes in a worker's routine on the job would not constitute a change of contract of hire.

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 recently 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).

While the employer is certainly entitled to make personnel decisions based upon its needs, that need does not necessarily relieve it from potential liability for unemployment insurance benefit payments. Production work is significantly different than computer programming work. Manning asked claimant to help on the production line, as opposed to conferring with the Human Resources department to learn if additional computer duties were available. Since claimant was assigned to do production work because of a business decision, the separation was with good cause attributable to the employer.

DECISION:

The June 26, 2015, (reference 02) unemployment insurance decision is affirmed. The claimant voluntarily left the employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

Christine A. Louis
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Decision Dated and Mailed

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