

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TITUS D LEWO
Claimant

ARCHER DANIELS MIDLAND CO
Employer

APPEAL 20A-UI-14020-S2-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 08/02/20
Claimant: Appellant (2)

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

STATEMENT OF THE CASE:

The claimant filed an appeal from the October 28, 2020, (reference 01) unemployment insurance decision that denied benefits based upon his voluntary quit due to dissatisfaction with his working conditions. The parties were properly notified about the hearing. A telephone hearing was held on January 4, 2021. Claimant Titus D. Lewo participated and testified. Employer Archer-Daniels-Midland Co. participated through plant superintendent Travis Bergerson.

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 field worker beginning in fall 2019, and was separated from employment on August 3, 2020, when he quit.

Claimant resigned his employment due to the work place being hostile. Another employee regularly yelled at claimant, mocked him for speaking English as a second language, and swore at him. Claimant brought his concerns to management and stated he would be forced to quit if conditions did not improve. The issues were not resolved.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was with 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.

The claimant has the burden of proof to establish he quit with good cause attributable to the employer, according to Iowa law. "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. Industrial Relations Commission*, 277 So.2d 827 (Fla. App. 1973).

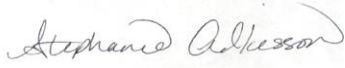
Ordinarily, "good cause" is derived from the facts of each case keeping in mind the public policy stated in Iowa Code section 96.2. *O'Brien v. EAB*, 494 N.W.2d 660, 662 (Iowa 1993)(citing *Wiese v. Iowa Dep't of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986)). "The term encompasses real circumstances, adequate excuses that will bear the test of reason, just grounds for the action, and always the element of good faith." *Wiese v. Iowa Dep't of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986) "[C]ommon sense and prudence must be exercised in evaluating all of the circumstances that lead to an employee's quit in order to attribute the cause for the termination." *Id.*

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. 871 IAC 24.26(4). While a claimant does not have to specifically indicate or announce an intention to quit if her concerns are not addressed by the employer, for a reason for a quit to be "attributable to the employer," a claimant faced with working conditions that he considers intolerable, unlawful or unsafe must normally take the reasonable step of notifying the employer about the unacceptable condition in order to give the employer reasonable opportunity to address his concerns. *Hy-Vee Inc. v. Employment Appeal Board*, 710 N.W.2d 1 (Iowa 2005); *Swanson v. Employment Appeal Board*, 554 N.W.2d 294 (Iowa 1996); *Cobb v. Employment Appeal Board*, 506 N.W.2d 445 (Iowa 1993). If the employer subsequently fails to take effective action to address or resolve the problem it then has made the cause for quitting "attributable to the employer."

Claimant has carried his burden of proving the voluntary leaving was for good cause attributable to employer. He had taken reasonable steps to preserve his employment prior to quitting. Claimant brought these issues to employer and they were not resolved. A reasonable person would quit under the circumstances. Claimant's separation from employment is therefore not disqualifying and benefits are allowed, provided he is otherwise eligible.

DECISION:

The October 28, 2020, (reference 01) unemployment insurance decision is reversed. The claimant voluntarily left his employment with good cause attributable to the employer. Benefits are allowed, provided claimant is not otherwise disqualified or ineligible.



Stephanie Adkisson
Administrative Law Judge
Unemployment Insurance Appeals Bureau
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Fax (515)478-3528

January 21, 2021
Decision Dated and Mailed

sa/mh

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>.