

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

TIMOTHY VANDER HAAG
Claimant

APPEAL NO: 12A-UI-07139-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

G & G EGG INC
Employer

OC: 05/06/12
Claimant: Appellant (1)

Iowa Code § 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Timothy Vander Haag (claimant) appealed an unemployment insurance decision dated June 7, 2012, reference 01, which held that he was not eligible for unemployment insurance benefits because he voluntarily quit his employment with G & G Egg, Inc. (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 10, 2012. The claimant participated in the hearing with Attorney Donald Hemphill. The employer participated through owner, Orval Gartner. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The employer operates an egg processing facility in Spencer, Iowa with approximately 90,000 chickens and six employees. The claimant was employed as a full-time maintenance/processing employee from October 25, 2011 through April 24, 2012 when he walked off the job without notice. Supervisor Mark Smith was involved in a fatal accident on April 14, 2012 when the mower he was operating on a hill flipped over on him. The supervisor's girlfriend, the claimant and two other employees attempted to help the supervisor.

The claimant did not mention any issues, complaints or problems to the employer prior to or on April 24, 2012. After working two hours that morning, he could not be found. The claimant did not drive a vehicle to work and apparently no one saw him leave. He did not answer his cell phone and due to the recent tragedy, the employer was understandably concerned. The owner and employees searched for the claimant for at least 90 minutes. The owner called his cell phone two hours after the fact and the claimant finally answered to report he was done.

The claimant quit because he said he was depressed over his friend's death, which he claimed occurred on April 20, 2012. He never gave the employer any idea that he was having problems coping or that he needed help. When asked why he did not ask the employer for a leave of

absence he said, "I couldn't.....I was too distraught." The claimant did not seek mental health treatment because he does not have medical insurance. However, he claimed he is able to work and said, "I was depressed for maybe two weeks and now I'm much better and see things in a different light."

REASONING AND CONCLUSIONS OF LAW:

The issue to be determined is whether the reasons for the claimant's separation from employment qualify him to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if he voluntarily quit without good cause attributable to the employer. Iowa Code § 96.5-1.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980) and *Peck v. Employment Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant demonstrated his intent to quit and acted to carry it out by walking off the job without notice on April 24, 2012.

Ordinarily, "good cause" is derived from the facts of each case keeping in mind the public policy stated in Iowa Code § 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.* In the case herein, there is a lack of good faith. The claimant never mentioned anything to the employer prior to walking off the job. Furthermore, he did not quit until ten days after the accident and admitted that he was only "...depressed for maybe two weeks..."

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. He has not satisfied that burden. Benefits are denied.

DECISION:

The unemployment insurance decision dated June 7, 2012, reference 01, is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/css