

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

PATRICK W SCHWEBACH
Claimant

HY-VEE INC
Employer

APPEAL 20A-UI-13114-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 06/07/20
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

Patrick W Schwebach, the claimant/appellant, filed an appeal from the October 16, 2020, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified of the hearing. A telephone hearing was held on December 17, 2020. The claimant participated and testified. The employer participated through Jamie Renken, Assistant Human Resources Manager and Barbara Buss, hearing representative.

ISSUE:

Was the claimant discharged for disqualifying job-related misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant began working for the employer on September 25, 2018. He worked as an order selector at the employer's Cherokee Distribution Center. The claimant's last day of work was January 28, 2020 when he quit.

The claimant was on light duty from the end of November 2019 through January 28, 2020 due to a back injury. While the claimant was on light duty he was required to meet with Lisa Stillwater (Stillwater), Vice President of Distribution, multiple times about what work activities he could and could not do on light duty. The claimant took the meetings with Stillwater as her harassing him and as her making the claimant feel like his injury was his fault. The claimant spoke with Megan Hohbach (Hohbach), Safety Coordinator, about feeling harassed by Stillwater. The claimant doesn't recall Hohbach's response but does recall that Hohbach didn't take his complaint seriously. The claimant never filed any other kind of harassment complaint because he felt like filing any other kind of complaint wouldn't change anything because of Stillwater's position.

Claimant had tried and was not successful in obtaining employment in the employer's transportation department. Claimant was frustrated by this.

On June 28, the claimant submitted a resignation letter. The reason the claimant gave in the letter was to take a different job. The claimant also quit out of frustration due to his belief that Stillwater was harassing him and because of his frustration about not getting a job in the employer's transportation department.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the 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:

...

(37) The claimant will be considered to have left employment voluntarily when such claimant gave the employer notice of an intention to resign and the employer accepted such resignation. This rule shall also apply to the claimant who was employed by an educational institution who has declined or refused to accept a new contract or reasonable assurance of work for a successive academic term or year and the offer of work was within the purview of the individual's training and experience.

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).

In this case, the claimant submitted his resignation and the employer accepted it. 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 October 16, 2020, (reference 01) unemployment insurance decision is affirmed. The claimant voluntarily left employment without good cause attributable to the employer.

A handwritten signature in black ink, appearing to read "Daniel Zeno", written in a cursive style.

Daniel Zeno
Administrative Law Judge

December 30, 2020
Decision Dated and Mailed

dz/scn