

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

DALE A ESPELIEN

Claimant

APPEAL 15A-UI-08556-JCT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WINNEBAGO INDUSTRIES

Employer

OC: 07/05/15

Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the July 21, 2015, (reference 01) unemployment insurance decision that denied benefits based upon separation. The parties were properly notified about the hearing. A telephone hearing was held on August 20, 2015. The claimant participated personally. The employer participated through Susan Gardner. David Midtgaard also testified for the employer. No documents were offered or admitted into evidence.

ISSUE:

Did the 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: The claimant was employed full-time as an assembler and was separated from employment on July 6, 2015, when he voluntarily resigned.

The claimant voluntarily resigned, via letter and in person, offering his employer a one-month notice. The claimant was hired in 2012 as an assembler, and from time-to-time, employees rotated throughout the division performing different job duties. The claimant resigned after being asked to perform some duties in the propane area, which he did not believe was properly ventilated. The claimant was more comfortable assembling hitches and engine covers, and now would split his time between the areas. The employer tests the area for air quality and to be OSHA compliant, but the claimant did not want to work in that area because he didn't feel strong enough and because he suffers from a respiratory illness, COPD.

The claimant did make the employer, by way of management and human resources aware of his dislike of the job assignment. It was only part of his work day, not his entire job duty. The claimant did not provide the employer a doctor's note to excuse him from working in the area, and his doctor did not advise him to quit based on the work conditions. However, the claimant determined it was best for his health and well-being, and resigned. Continuing work was available.

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 § 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 Code § 96.5-1-d 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. But the individual shall not be disqualified if the department finds that:

d. The individual left employment because of illness, injury or pregnancy upon the advice of a licensed and practicing physician, and upon knowledge of the necessity for absence immediately notified the employer, or the employer consented to the absence, and after recovering from the illness, injury or pregnancy, when recovery was certified by a licensed and practicing physician, the individual returned to the employer and offered to perform services and the individual's regular work or comparable suitable work was not available, if so found by the department, provided the individual is otherwise eligible.

Iowa Admin. Code r. 871-24.25(21) and (27) 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:

(21) The claimant left because of dissatisfaction with the work environment.

(27) The claimant left rather than perform the assigned work as instructed.

The 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).

An employer has the right to allocate personnel in accordance with the needs and available resources. *Brandl v. Iowa Dep't of Job Serv.*, (No. ____/____, Iowa Ct. App. filed ____,

1986). It is understandable that the claimant preferred to assemble the engine covers and hitches, but no evidence was presented that he could not complete his assembler duties which included from time to time, the propane area. The employer tests the air quality to make sure it's safe for workers, and no medical documentation was submitted to the contrary or in support of the claimant's resignation. Based on the evidence presented, the administrative law judge concludes that the claimant's leaving the employment may have been based upon good personal reasons, but it was not for a good-cause reason attributable to the employer according to Iowa law. Benefits must be denied.

DECISION:

The July 21, 2015, (reference 01) unemployment insurance decision is affirmed. The claimant voluntarily left the 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.

Jennifer L. Coe
Administrative Law Judge

Decision Dated and Mailed

jlc/mak