

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

COLLIN M RAMSDELL
Claimant

THE SHERWIN-WILLIAMS CO
Employer

APPEAL NO. 17A-UI-07949-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 07/09/17
Claimant: Appellant (1)**

Iowa Code § 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated July 25, 2017, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on August 24, 2017. Claimant participated. Employer participated by hearing representative, Mary Wolf, and witness, Cathy Catino. Employer's Exhibits 1-4 were admitted into evidence.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on March 10, 2017. Claimant voluntarily quit his position on March 10, 2017 when he was addressed about the deficiencies in his work by the district manager and given a buy-out package.

Claimant worked as a full time employee for employer since 2016. Employer had received complaints as to claimant's customer service and attitude and sought to address claimant's work failings and attitude through a series of warnings issued on March 7, 2017. Claimant signed for the receipt of three warnings. On March 10, 2017, the district manager called claimant to speak about how the parties might move ahead. Claimant stated that he wasn't happy, wanted an assistant manager to be fired, and was looking for other work. Employer gave claimant options; he could either work to change his attitude such that he wouldn't end up being terminated in the future or he could quit his job, receive two weeks of extra pay and all the vacation hours he'd accrued.

Claimant chose to quit his position and accept the buyout. He wrote out an email to the district manager explaining that he was quitting and receiving the money. Claimant received the extra pay he'd negotiated.

Claimant argued he didn't quit, and although he'd received a warning three days earlier, claimant said he was terminated for the same acts he'd been warned for the days before. Claimant also said that he didn't believe he'd written out or signed the resignation letter.

REASONING AND CONCLUSIONS OF LAW:

It is the duty of the administrative law judge as the trier of fact in this case, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa Ct. App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *State v. Holtz*, Id. In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other believable evidence; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *State v. Holtz*, Id.

In this matter a determination has to be made regarding credibility of witnesses. Looking at the claimant's testimony, the administrative law judge has found a lack of candor – especially regarding the resignation note. Claimant had a great reason to deny this note, as it is indicative of an intent to resign, and would greatly lessen a termination argument. The administrative law judge holds that claimant did voluntarily quit his job as claimant believed he was receiving a positive deal from employer to quit. The evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because he no longer wished to work for employer.

Iowa Code § 96.5-1 provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

DECISION:

The decision of the representative dated July 25, 2017, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed

bab/scn