

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

TODD E WINDEKNECHT
Claimant

ATTACHMENT TECHNOLOGIES INC
Employer

APPEAL 15A-UI-03486-JCT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 03/01/15
Claimant: Appellant (2)**

Section 96.5(1) – Voluntary Quit
871 IAC 24.26(21) – Quit or Be Discharged

STATEMENT OF THE CASE:

The claimant filed an appeal from the March 17, 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 April 14, 2015. The claimant participated. Although properly notified, the employer submitted a letter of non-participation. Claimant's Exhibits One and Two were received into evidence.

ISSUE:

Did claimant voluntarily leave the employment with good cause attributable to employer or did employer discharge claimant for reasons related to job misconduct sufficient to warrant a denial of benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed full time as a supply chain leader and was separated from employment on February 2, 2015.

The claimant's yearly objectives were based both on his individual performance and that of others within the company. The claimant did not meet all of his 2014 objectives, including some of which he was personally responsible for attaining. In response, the claimant had a meeting with his manager, Shawn Britt, and human resources. The claimant was presented two options: either resign immediately and accept a severance package, or be put upon a performance improvement plan for the next three weeks. The plan outlined a series of objectives, including those which were both in the claimant's direct control and those which were contingent upon others. If the claimant failed to meet all of the tasks within the allotted time as outlined, he would be fired and would not receive any severance pay. The claimant reviewed the objectives with his manager, who stated he did not believe the performance plan goals were achievable. He advised the claimant if he were in the claimant's shoes under the circumstances, he would take the money and leave. The claimant then resigned.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence in the record establishes that the claimant voluntarily quit or faced discharge. For the reasons set forth below, the administrative law judge concludes the voluntarily quit was for good cause.

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 Admin. Code r. 871-24.26(21) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

- (21) The claimant was compelled to resign when given the choice of resigning or being discharged. This shall not be considered a voluntary leaving.

In this case, the claimant was compelled to resign from his position or be discharged. The test is whether a reasonable person in Mr. Windeknecht's position would have concluded that his choice was to quit or face discharge. See Aalbers v. Iowa Department of Job Service, 431 N.W.2d 330 (Iowa 1988) and O'Brien v. Employment Appeal Bd., 494 N.W.2d 660 (1993). The employer had presented the claimant with a severance package or a performance improvement plan. The uncontested evidence in this case is that the objectives within the plan were unattainable, and would have simply delayed the claimant's discharge to the end of the three weeks' period and he would not be eligible for severance pay. The claimant's own manager told him that he as the manager could not meet the goals outlined within the plan and advised the claimant resign. A reasonable person would have drawn the conclusion that the claimant's option was to quit or be discharged. Under the applicable Workforce Development rule, the claimant's quit was for good cause attributable to the employer and she is eligible for benefits. See 871 IAC 24.26(21).

DECISION:

The Agency representative's March 17, 2015 (reference 01) decision is reversed. The claimant's quit was for good cause attributable to the employer. Benefits are allowed, provided he is otherwise eligible.

Jennifer L. Coe
Administrative Law Judge

Decision Dated and Mailed

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