

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**SHAWN A HILMER**  
Claimant

**DEERE & COMPANY**  
Employer

**APPEAL 20A-UI-08912-HP-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 05/03/20**  
**Claimant: Appellant (1)**

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

**STATEMENT OF THE CASE:**

Claimant Shawn Hilmer filed an appeal from a July 21, 2020 (reference 01) unemployment insurance decision that denied benefits for voluntarily quitting his work with Deere & Company (“Deere”) on April 22, 2020. The parties were properly notified of the hearing. A telephone hearing was held on September 9, 2020. Hilmer appeared and testified. Janice Gordon appeared and testified on behalf of Deere. Exhibit 1 was admitted into the record. I took administrative notice of the claimant’s unemployment insurance benefits records maintained by Iowa Workforce Development.

**ISSUE:**

Was the separation a layoff, discharge for misconduct or voluntary quit without good cause?

**FINDINGS OF FACT:**

Hilmer commenced full-time employment with Deere on June 21, 2004. Hilmer held a number of positions during his employment with Deere. His most recent position was CNC operator. Hilmer’s immediate supervisor was Dean Frerichs.

Hilmer requested a medical leave of absence in March 2020 for a thyroid condition. Deere granted his request. No physician opined Hilmer’s employment caused or aggravated the condition.

On or about April 22, 2020, Hilmer told Deere he was resigning because he had found other employment. Hilmer accepted a full-time position with Seasonal Solutions as a general laborer. Hilmer did not rescind his resignation before he quit.

Hilmer testified he was concerned about his employment at Deere because the processes Deere used were causing problems with the product. Deere did not discipline Hilmer in 2019 or 2020.

Hilmer reported his physician recommended he find other employment. No physician has certified Hilmer’s position with Deere has aggravated his thyroid condition.

## REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5(1) provides an individual “shall be disqualified for benefits, regardless of the source of the individual’s wage credits: . . . If the individual has left work voluntarily without good cause attributable to the individual’s employer, if so found by the department.” The Iowa Supreme Court has held a “voluntary quit” means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer.” *Wills v. Emp’t Appeal Bd.*, 447 N.W.2d 137, 138 (Iowa 1989). A voluntary quit requires “an intention to terminate the employment relationship accompanied by an overt act carrying out the intent.” *Peck v. Emp’t Appeal Bd.*, 492 N.W.2d 438, 440 (Iowa Ct. App. 1992). “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). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). The employer has the burden of proving that a claimant’s departure from employment was voluntary. *Irving v. Emp’t Appeal Bd.*, 883 N.W.2d 179 (Iowa 2016).

871 Iowa Administrative Code -24.25(21) 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.

**24.25(21)** The claimant left because of dissatisfaction with the work environment.

871 Iowa Administrative Code 24.26(4) 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:

**24.26(4)** The claimant left due to intolerable or detrimental working conditions.

If the claimant establishes the claimant left due to intolerable or detrimental working conditions, benefits are allowed. Generally, notice of an intent to quit is required by *Cobb v. Employment Appeal Board*, 506 N.W.2d 445, 447-78 (Iowa 1993), *Suluki v. Employment Appeal Board*, 503 N.W.2d 402, 405 (Iowa 1993), and *Swanson v. Employment Appeal Board*, 554 N.W.2d 294, 296 (Iowa Ct. App. 1996). These cases require an employee to give an employer notice of intent to quit, thus giving the employer an opportunity to cure working conditions. The Iowa Administrative Code was amended in 1995 to include an intent-to-quit requirement. The requirement was only added, however, to rule 871-24.26(6)(b), the provision involving work-related health problems. No intent-to-quit requirement was added to rule 871-24.26(4), the intolerable working conditions provision. The Iowa Supreme Court concluded that, because the intent-to-quit requirement was added to 871-24.26(6)(b) but not 871-24.26(4), notice of intent to quit is not required for intolerable working conditions. *Hy-Vee, Inc. v. Emp’t Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005).

“Good cause attributable to the employer” does not require fault, negligence, wrongdoing or bad faith by the employer. *Dehmel v. Emp’t Appeal Bd.*, 433 N.W.2d 700, 702 (Iowa 1988) (“good cause attributable to the employer can exist even though the employer is free from all negligence or wrongdoing in connection therewith”); *Shontz v. Iowa Emp’t Sec. Comm’n*, 248 N.W.2d 88, 91

(Iowa 1976)(benefits payable even though employer “free from fault”); *Raffety v. Iowa Emp’t Sec. Comm’n*, 76 N.W.2d 787, 788 (Iowa 1956) (“good cause attributable to the employer need not be based upon a fault or wrong of such employer”). Good cause may be attributable to “the employment itself” rather than the employer personally and still satisfy the requirements of the Act. *Raffety*, 76 N.W.2d at 788 (Iowa 1956). Therefore, the claimant is not required to give the employer any notice with regard to the alleged intolerable or detrimental working conditions prior to her quitting. However, the claimant must prove the claimant’s working conditions were intolerable or detrimental.

Iowa Admin. Code r. 871-24.26(6)a also provides:

The following are reasons for a claimant leaving employment with good cause attributable to the employer: . . . .

**24.26(6)** Separation because of illness, injury, or pregnancy.

*a. Nonemployment related separation.* The claimant left because of illness, injury or pregnancy upon the advice of a licensed and practicing physician. Upon recovery, when recovery was certified by a licensed and practicing physician, the claimant returned and offered to perform services to the employer, but no suitable, comparable work was available. Recovery is defined as the ability of the claimant to perform all of the duties of the previous employment.

*b. Employment related separation.* The claimant was compelled to leave employment because of an illness, injury, or allergy condition that was attributable to the employment. Factors and circumstances directly connected with the employment which caused or aggravated the illness, injury, allergy, or disease to the employee which made it impossible for the employee to continue in employment because of serious danger to the employee’s health may be held to be an involuntary termination of employment and constitute good cause attributable to the employer. The claimant will be eligible for benefits if compelled to leave employment as a result of an injury suffered on the job.

In order to be eligible under this paragraph “b” an individual must present competent evidence showing adequate health reasons to justify termination; before quitting have informed the employer of the work-related health problem and inform the employer that the individual intends to quit unless the problem is corrected or the individual is reasonably accommodated. Reasonable accommodation includes other comparable work which is not injurious to the claimant’s health and for which the claimant must remain available.

Hilmer reported his working conditions were intolerable at Deere and so he resigned. Deere did not discipline Hilmer in 2019 or 2020. There was no evidence presented anyone at Deere discriminated against Hilmer on the basis of race, age, religion, national origin, sex, or disability. I do not find Hilmer’s working conditions were intolerable or detrimental where a reasonable person would feel compelled to resign.

Hilmer testified he believed his employment aggravated his thyroid condition. No physician has opined Hilmer’s thyroid condition was aggravated by his employment with Deere. Deere granted Hilmer’s request for a medical leave of absence. Hilmer did not tell Deere he was quitting due to his medical condition. Hilmer did not request a reasonable accommodation from Deere. While he was off work, Hilmer found other employment and he resigned from Deere. Unfortunately, due to the pandemic, his employment did not go as he anticipated. I find Hilmer’s separation from Deere was personal and without good cause attributable to Deere. Benefits are denied.

## **DECISION:**

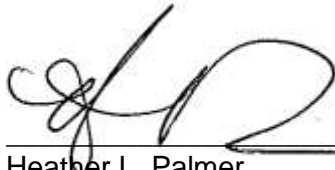
### **Regular Unemployment Insurance Benefits Under State Law**

The July 21, 2020 (reference 01) unemployment insurance decision denying unemployment insurance benefits is affirmed. Claimant voluntarily quit the claimant's employment with the employer on April 22, 2020. Unemployment insurance benefits are denied until the claimant has worked in and earned wages for insured work equal to ten times the claimant's weekly benefit amount after the claimant's separation date, and provided the claimant is otherwise eligible.

### **Pandemic Unemployment Assistance ("PUA") Under the Federal CARES Act**

Even though the claimant is not eligible for regular unemployment insurance benefits under state law, the claimant may be eligible for federally funded unemployment insurance benefits under the CARES Act. Section 2102 of the CARES Act creates a new temporary federal program called Pandemic Unemployment Assistance ("PUA") that may provide up to 39 weeks of unemployment benefits. An individual receiving PUA benefits may also receive an additional \$600 weekly benefit amount under the Federal Pandemic Unemployment Compensation ("FPUC") program if the individual is eligible for PUA benefits for the week claimed. The FPUC additional \$600 payment per week ends as of July 25th in Iowa. This means the \$600 weekly additional benefit will stop and at this time, no extension or change to the program has been made by Congress at this time. This does mean that you will see a corresponding decrease in your weekly benefit amount. The FPUC payments are not a state benefit and Iowa is unable to make any changes to the availability of this benefit. If a change takes place to this benefit in the future, IWD will share on the IWD website and social media. This decision does not address whether the claimant is eligible for PUA. If the claimant wishes to receive PUA benefits, the claimant must apply for PUA, as noted in the instructions provided in the "Note to Claimant" below:

**Note to Claimant:** If this decision determines you are not eligible for regular unemployment insurance benefits and you disagree with this decision, you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits, but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance ("PUA"). **You will need to apply for PUA to determine your eligibility under the program. Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.** This decision denies benefits. If this decision becomes final or if you are not eligible for PUA, you may have an overpayment of benefits.



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September 11, 2020  
Decision Dated and Mailed

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hlp/sam