

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MOHAMMAD ALSHIEKH
Claimant

APPEAL 20A-UI-04355-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

WHIRLPOOL CORPORATION
Employer

OC: 03/29/20
Claimant: Appellant (2)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code section 96.3(7) – Overpayment of Benefits
PL116-136, § 2104 – Eligibility for Federal Pandemic Unemployment Compensation

STATEMENT OF THE CASE:

On May 21, 2020, Mohammad Alshiekh (claimant/appellant) filed a timely appeal from the May 14, 2020 (reference 02) unemployment insurance decision that denied benefits.

A telephone hearing was held on June 5, 2020. The parties were properly notified of the hearing. The claimant participated personally. Whirlpool Corporation (employer/respondent) participated by Amih Sallah.

ISSUE(S):

- I. Was the separation a layoff, discharge for misconduct, or voluntary quit without good cause?
- II. Was the claimant overpaid benefits?
- III. Is the claimant eligible for federal pandemic unemployment compensation?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant worked for employer full-time as a assembler. Claimant's first day of employment was March 20, 2019. The last day claimant worked on the job was the end of July 2019. Claimant's immediate supervisor was Chris. Claimant separated from employment near the end of July 2019. Claimant resigned at that time.

Claimant resigned due to unsafe and intolerable or detrimental working conditions. The area where claimant and many other employees worked was not temperature controlled. Beginning in approximately late May 2019 and continuing until claimant's resignation, the temperature in the working area was often well above 100 degrees. Claimant witnessed coworkers become ill due to the heat, including his brother, and reported his concerns to his team leader and supervisors

on several occasions. However, the issue was not addressed, and claimant and others were expected to continue working in the conditions. Claimant was not aware at the time of hire that he would be expected to work in such extreme conditions. Claimant finally resigned because he felt it was unsafe for him to continue working there.

REASONING AND CONCLUSIONS OF LAW:

For the reasons set forth below, the May 14, 2020 (reference 02) unemployment insurance decision that denied benefits is REVERSED. Claimant is eligible for benefits, provided he meets all other eligibility requirements.

Iowa Code section 96.5(1)a 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.

Iowa Admin. Code r. 871-24.26 provides in relevant part:

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:

(2) The claimant left due to unsafe working conditions.

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

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). "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". *Id.* (citing *Cook v. Iowa Dept. of Job Service*, 299 N.W.2d 698, 701 (Iowa 1980)).

"Good cause" for leaving employment must be that which is reasonable to the average person, not to the overly sensitive individual or the claimant in particular. *Uniweld Products v. Industrial Relations Commission*, 277 S.2d 827 (Florida App. 1973). While a notice of intent to quit is not required to obtain unemployment benefits where the claimant quits due to intolerable or detrimental working conditions, the case for good cause is stronger where the employee complains, asks for correction or accommodation, and employer fails to respond. *Hy-Vee Inc. v. EAB*, 710 N.W.2d 1 (Iowa 2005).

Iowa unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code §§ 96.5(1) and 96.5(2)a. A voluntary quitting of employment requires that an employee exercise a voluntary choice between remaining employed or terminating the employment relationship. *Wills v. Emp't Appeal Bd.*, 447 N.W.2d 137, 138 (Iowa 1989); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438, 440 (Iowa Ct. App. 1992). 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).

Claimant has carried his burden of proving the voluntary leaving was for good cause attributable to employer. A reasonable person in claimant's position would find the working conditions so intolerable or detrimental as to justify quitting, particularly given employer's failure to address the issue and the length of time the issue persisted. The working conditions also appear to have been objectively unsafe, based on claimant's own experience and his observation of coworkers, including his brother. Furthermore, claimant was not aware at the time of hire that he would be expected to work in such extreme conditions.

The administrative law judge finds claimant's quitting was with good cause attributable to employer. As such, benefits are allowed. The other issues noticed need not be addressed.

DECISION:

The May 14, 2020 (reference 02) unemployment insurance decision that denied benefits is REVERSED. Claimant is eligible for benefits, provided he meets all other eligibility requirements.



Andrew B. Duffelmeyer
Administrative Law Judge
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June 22, 2020
Decision Dated and Mailed

abd/scn