

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

DUANE S CROSBY
Claimant

APPEAL NO. 11A-UI-02222-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

HY-VEE INC
Employer

**OC: 01/16/11
Claimant: Appellant (1)**

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Duane Crosby (claimant) appealed a representative's February 22, 2011 decision (reference 01) that concluded he was not eligible to receive unemployment insurance benefits because he voluntarily quit work with Hy-Vee (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for March 22, 2011. The claimant participated personally. The employer was represented by Paula Mack, hearing representative, and participated by Tim McCracken, human resource manager, and Cameron Sheets, assistant night stock manager.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant was hired on August 8, 2006, as a part-time night stock person. The claimant and his co-worker were good friends on some days and upset with each other on other days. They each complained to the employer about the other. The employer would separate them and later they would move back together.

On November 7, 2010, the co-worker told the employer that he had to have time off because his grandfather was ill. The employer gave him time off. As he left, the co-worker smiled at the claimant and then turned with a sad face to the employer. The claimant was angry and told the employer that the co-worker was lying. The employer did not believe the claimant. The claimant was angry, threw a box of juice, said "fuck," and walked out. The employer told the claimant that he could not walk out. The claimant said he was done.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily quit work without good cause attributable to the employer.

Iowa Code section 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.

871 IAC 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. 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.

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). The claimant's intention to voluntarily leave work was evidenced by his words and actions. He told the employer that he was done and walked off the job. When an employee quits work because he is dissatisfied with the work environment, his leaving is without good cause attributable to the employer. The claimant left work because he did not like his work environment and his interactions with his co-worker. His leaving was without good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

DECISION:

The representative's February 22, 2011 decision (reference 01) is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount, provided the claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/kjw