

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DUSTIN MAZGAJ

Claimant

APPEAL NO. 15A-UI-04144-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WHIRLPOOL CORPORATION

Employer

OC: 02/22/15

Claimant: Appellant (1)

Section 96.5(1)(a) – Voluntary Quit to Accept Other Employment

STATEMENT OF THE CASE:

Dustin Mazgaj filed a timely appeal from the March 27, 2015, reference 03, decision that disqualified him for benefits and that relieved the employer's account of liability for benefits, based on an Agency conclusion that he had voluntarily quit on August 19, 2014 without good cause attributable to the employer. After due notice was issued, a hearing was held on May 15, 2015. Mr. Mazgaj participated. The employer did not provide a telephone number for the hearing and did not participate. The employer was aware of the hearing.

ISSUE:

Whether Mr. Mazgaj separated from the employment for a reason that disqualifies him for benefits or that relieves the employer of liability for benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Dustin Mazgaj was employed by Whirlpool Corporation as a full-time plant utility assembler from 2012 until August 19, 2014, when he voluntarily quit the employment. Mr. Mazgaj provided the employer with a written resignation memo in which he notified the employer he was leaving the employment to attend college the University of Iowa. Mr. Mazgaj began his studies at the University of Iowa on or about August 21, 2014.

In July 2014, Mr. Mazgaj had commenced part-time employment with Pizza Ranch in Iowa City. Mr. Mazgaj continued in that part-time employment with Pizza Ranch after his separation from Whirlpool Corporation.

Mr. Mazgaj asserts multiple reasons for leaving the employment. Those include the commuting distance. Mr. Mazgaj began and ended the employment with a 30-45 minute commute to Middle Amana. In August 2013, Mr. Mazgaj moved closer to the workplace. In April 2014, Mr. Mazgaj moved to Iowa City and continued to commute to Middle Amana. Mr. Mazgaj

indicates that his quit was also based on back and knee pain. A doctor did not advise Mr. Mazgaj to quit the employment. Mr. Mazgaj also quit due to interpersonal differences with the union steward. Finally, Mr. Mazgaj asserts that he quit due to his dissatisfaction with having been laid off at the start of the 2014 and his belief that he would be subjected to future layoffs.

REASONING AND CONCLUSIONS OF LAW:

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

Iowa Code section 96.5(1)(a) provides as follows:

Causes for disqualification.

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. But the individual shall not be disqualified if the department finds that:
 - a. The individual left employment in good faith for the *sole purpose* of accepting other or better employment, which the individual did accept, *and the individual performed services in the new employment*. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

[Emphasis added.] The administrative law judge must follow the plain language of the statute.

Iowa Admin. Code r. 871-24.25(26) 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 § 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 § 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:

- (26) The claimant left to go to school.

The evidence in the record establishes that Mr. Mazgaj voluntarily quit the employment with Whirlpool Corporation without good cause attributable to that employer so that he could commence full-time studies at The University of Iowa. The July 2014 part-time employment with Pizza Ranch was not the "sole purpose" of the separation or even the primary basis for the separation. Because Mr. Mazgaj voluntarily quit the employment without good cause attributable to the employer, he is disqualified for benefits until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The employer's account shall not be charged for benefits.

Mr. Mazgaj's testimony at the appeal hearing differed from his statement at the March 26, 2015 fact-finding interview, at which time he indicated he had left the employment to go to school and because Whirlpool did not offer part-time employment. In any event, Mr. Mazgaj's additional reasons for leaving the employment would not indicate a quit for good cause attributable to the employer.

Iowa Admin. Code r. 871-24.25(30), (6), (29) 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 § 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 § 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:

(30) The claimant left due to the commuting distance to the job; however, the claimant was aware of the distance when hired.

(6) The claimant left as a result of an inability to work with other employees.

(29) The claimant left in anticipation of a layoff in the near future; however, work was still available at the time claimant left the employment.

In addition, Mr. Mazgaj concedes that a doctor did not advise him to quit the employment. See Iowa Code section 96.5(1)(d) and 871 IAC 24.25(37).

DECISION:

The March 27, 2015, reference 03, decision is affirmed. The claimant voluntarily quit the employment on August 19, 2015 without good cause attributable to the employer. The claimant is disqualified for benefits until he has worked in a been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The employer's account shall not be charged.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs