

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

RICHARD A ANDERSON
Claimant

CASEY'S MARKETING COMPANY
Employer

APPEAL 17A-UI-04999-DG
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/16/17
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated May 11, 2017, (reference 01) that held claimant ineligible for unemployment insurance benefits. After due notice, an in-person hearing was scheduled for and held on September 6, 2017 in Ottumwa, Iowa. Claimant participated. Employer participated by Sharon Woods, Area Supervisor.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on April 14, 2017. Claimant resigned from the employment on April 15, 2017.

Claimant began working for employer on November 25, 2015. He was employed as a full-time food service leader. Claimant had not been warned about misconduct prior to the separation from the employment, and there was work available to him on that date.

On or about April 15, 2017, claimant heard that he was under investigation for alleged misconduct that had occurred at the store. Chariton, Iowa is a small town, and claimant was concerned that his reputation was being damaged by the rumors that co-workers were telling others about him. The claimant had been told that co-workers were saying that he had used alcohol or drugs while at work, and that he had been loud and threatening toward co-workers.

Claimant tried to contact his store manager, Brenda Robertson on April 15, 2017. Claimant was very upset by the gossip, and he wanted to know what his manager was doing about the rumors. Claimant was not able to get ahold of Ms. Robertson. He became increasingly upset and sent her a text that said, "I quit effective immediately". Ms. Robertson later saw the text and believed claimant had quit at that time.

Claimant was under investigation for misconduct because co-workers had reported that claimant had been yelling and being disruptive at the store. The employer did not have reliable evidence of misconduct, and the investigation was ongoing when claimant sent the message stating that he had quit.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because he heard rumors that he was being investigated by employer for alleged work-related misconduct.

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.

Iowa Admin. Code r. 871-24.25(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.

It is the duty of the administrative law judge as the trier of fact in this case, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *Id.* In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other believable evidence; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *Id.*

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). 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).

Individuals who leave their employment due to disparate treatment are considered to have left work due to intolerable or detrimental working conditions and their leaving is deemed to be for good cause attributable to the employer. The test is whether a reasonable person would have

quit under the circumstances. See *Aalbers v. Iowa Dep't of Job Serv.*, 431 N.W.2d 330 (Iowa 1988) and *O'Brien v. Emp't Appeal Bd.*, 494 N.W.2d 660 (Iowa 1993).

While claimant's leaving the employment may have been based upon good personal reasons, it was not for a good-cause reason attributable to the employer. Benefits must be denied.

DECISION:

The decision of the representative dated May 11, 2017, (reference 01) is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

Duane L. Golden
Administrative Law Judge

Decision Dated and Mailed

dlg/scn