

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CARLTON B ELLIS
Claimant

HAMILTON TECHNICAL COLLEGE LTD
Employer

APPEAL 20A-UI-14097-S2-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 07/19/20
Claimant: Appellant (1)

Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.5(1) – Voluntary Quit
Iowa Code § 96.6(2) – Timeliness of Appeal

STATEMENT OF THE CASE:

The claimant filed an appeal from the October 20, 2020, (reference 01) unemployment insurance decision that denied benefits based upon his voluntary quit. The parties were properly notified about the hearing. A telephone hearing was held on January 6, 2021. Claimant participated and testified. Employer Hamilton Technical College, Ltd. participated through chief operating officer Tim Campagna, executive director Susan Spivey, and director of financial and administrative services Patty McCracken. Claimant's Exhibit A was admitted into the record.

ISSUES:

Is claimant's appeal timely?
Did claimant voluntarily quit the employment with good cause attributable to employer?

FINDINGS OF FACT:

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

On October 20, 2020, Iowa Workforce Development (IWD) mailed a reference 01 unemployment insurance decision that denied unemployment insurance benefits to claimant's last address of record. The decision warned an appeal was due by October 30, 2020. Claimant did not receive the decision. On November 5, 2020, claimant called Iowa Workforce Development and spoke with a customer service representative who emailed claimant the decision and informed claimant he could appeal the decision. Claimant filed his appeal the same day.

Claimant was employed full-time as an academic dean from February 10, 2020, and was separated from employment on May 5, 2020, when he quit.

Susan Spivey was claimant's immediate supervisor. Claimant and Spivey had issues. Claimant felt that Spivey's criticism of his work and job performance was harassment. Claimant believed Spivey yelled at him and did not yell at other employees. Spivey took away claimant's

scheduling duties and completed them herself, but she did so because he was struggling to complete them. Claimant did not point to other duties or responsibilities Spivey took from him.

Claimant emailed his resignation to employer on April 21, 2020, effective May 15, 2020. On April 22, 2020, claimant met with Spivey, Campagna, and the board president, to discuss his resignation email. During this email, claimant notified them he felt harassed by Spivey because she yelled at him and reduced his job duties. Employer agreed to investigate the matter and told them not to speak about the investigation with each other or staff.

Claimant expressed concerns to Campagna about one of his direct reports. On May 5, 2020, claimant was called to a video meeting involving Campagna, Spivey, and claimant's direct report. Claimant was unaware the report was on the call and shared his opinion of him when asked to by Campagna. After learning the report was on the call, claimant became upset and left his position immediately.

REASONING AND CONCLUSIONS OF LAW:

The first issue to be considered in this appeal is whether the appellant's appeal is timely. The administrative law judge determines it is.

Iowa Code § 96.6(2) provides, in pertinent part:

The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. . . . Unless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision.

The claimant did not have an opportunity to timely appeal the fact-finder's decision because the decision was not received within the time limit to appeal. Without notice of a disqualification, no meaningful opportunity for appeal exists. See *Smith v. Iowa Emp't Sec. Comm'n*, 212 N.W.2d 471, 472 (Iowa 1973). The claimant filed an appeal as soon as he contacted IWD and was advised of his appeal rights. Therefore, the appeal shall be accepted as timely.

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was 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.

Iowa Admin. Code r. 871-24.25 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.

(22) The claimant left because of a personality conflict with the supervisor.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "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). 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 evidence in this case shows that claimant was dissatisfied with the work environment. Claimant and Spivey, his supervisor, did not get along. Spivey yelled at claimant and took away his scheduling duties. However, the incidents do not paint the picture of work environment that rise to the level of being intolerable or detrimental under rule 871-24.26(4). Rather, the evidence shows that claimant and Spivey had a personality conflict and claimant quit due to that and his dissatisfaction with his work environment.

While claimant may have had a good reason for quitting his job, the reason does not constitute good cause attributable to the employer under Iowa Code section 96.5(1) and rules 871-24.25(21) and 871-24.25(22). Benefits are therefore denied.

DECISION:

The October 20, 2020, (reference 01) unemployment insurance decision is affirmed. The appeal is timely. The claimant voluntarily left his employment without good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.



Stephanie Adkisson
Administrative Law Judge
Unemployment Insurance Appeals Bureau
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Des Moines, Iowa 50319-0209
Fax (515)478-3528

January 26, 2021
Decision Dated and Mailed

sa/mh

Note to Claimant: This decision determines you are not eligible for regular unemployment insurance benefits. If 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 due to disqualifying separations, 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>.