

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**JEREMIAH J PLAGGE**

Claimant

**STAFF MANAGEMENT SOLUTIONS LLC**

Employer

**APPEAL 19A-UI-06546-JC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 10/28/18**

**Claimant: Appellant: (1)**

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Iowa Code § 96.5(1) – Voluntary Quitting

**STATEMENT OF THE CASE:**

The claimant/appellant, Jeremiah J. Plagge, filed an appeal from the August 13, 2019 (reference 07) Iowa Workforce Development (“IWD”) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on September 12, 2019. The claimant participated personally. The employer did not respond to the notice of hearing to furnish a phone number with the Appeals Bureau and did not participate in the hearing.

The administrative law judge took official notice of the administrative records including the fact-finding documents. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUES:**

Did the claimant voluntarily quit the employment with good cause attributable to the employer?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant worked on one assignment for this employer, before quitting the assignment and quitting the employment. He worked from June 13, 2019 until June 19, 2019 on assignment at Proctor and Gamble.

The claimant quit the assignment and employment by way of email, with no notice. He cited a lack of safety culture (both on assignment and with the employer) as the primary reason for quitting. The claimant stated he was concerned about the safety based upon the order of safety test questions that were asked in his training class, the fact the employer provided cheap personal protective equipment (glasses) that he had been advised he was not to speak to in-house employees, and that he was not allowed to “coach” an employee he observed being inattentive during training. The claimant acknowledged he was overqualified for the position but that he originally hoped to secure permanent employment with the employer and work his way up.

He worked less than three days on assignment. He requested to speak to the safety manager but his employer did not make the contact available that day, and he believed they did not intend to resolve his concerns.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant voluntarily quit the employment without good cause attributable to the employer according to Iowa law. Benefits are denied.

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. They remain disqualified until such time as they requalify for benefits by working and earning insured wages ten times their weekly benefit amount. *Id.*

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.

The claimant has the burden of proof to establish he quit with good cause attributable to the employer, according to Iowa law. "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. Industrial Relations Commission*, 277 So.2d 827 (Fla. App. 1973). Ordinarily, "good cause" is derived from the facts of each case keeping in mind the public policy stated in Iowa Code section 96.2. *O'Brien v. EAB*, 494 N.W.2d 660, 662 (Iowa 1993)(citing *Wiese v. Iowa Dep't of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986)). "The term encompasses real circumstances, adequate excuses that will bear the test of reason, just grounds for the action, and always the element of good faith." *Wiese v. Iowa Dep't of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986) "[C]ommon sense and prudence must be exercised in evaluating all of the circumstances that lead to an employee's quit in order to attribute the cause for the termination." *Id.*

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.* After assessing the credibility of the claimant who testified during the hearing, considering the applicable factors listed above, and using her own common sense and experience, the administrative law judge finds the weight of the evidence in the record establishes claimant has not met his burden of proof to establish he quit for good cause reasons within Iowa law.

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See 871 IAC 24.26(4). The test is whether a reasonable person would have quit under the circumstances. See *Aalbers v. Iowa Department of Job Service*, 431 N.W.2d 330 (Iowa 1988) and *O'Brien v. Employment Appeal Bd.*, 494 N.W.2d 660 (1993).

The credible evidence does not support that a reasonable person would have quit under the circumstances presented by the claimant. In this case, he was assigned to Proctor & Gamble, with hopes of being hired as a permanent employee. The claimant determined in less than three days that the client did not value a safety culture consistent with his beliefs and tendered his resignation. The claimant based this belief based upon placement of questions on a safety exam, and his assessment of the quality of safety glasses and peers in his training class. The claimant's belief that he was entitled to coach other employees (whether temporary or permanent at the assignment) was not reasonable under the circumstances, and his inability to do so, does not constitute an intolerable or detrimental working condition.

While a claimant does not have to specifically indicate or announce an intention to quit if his concerns are not addressed by the employer, for a reason for a quit to be "attributable to the employer," a claimant faced with working conditions that he considers intolerable, unlawful or unsafe must normally take the reasonable step of notifying the employer about the unacceptable condition in order to give the employer reasonable opportunity to address his concerns. *Hy-Vee Inc. v. Employment Appeal Board*, 710 N.W.2d 1 (Iowa 2005); *Swanson v. Employment Appeal Board*, 554 N.W.2d 294 (Iowa 1996); *Cobb v. Employment Appeal Board*, 506 N.W.2d 445 (Iowa 1993). If the employer subsequently fails to take effective action to address or resolve the problem, it then has made the cause for quitting "attributable to the employer."

The administrative law judge is not persuaded the claimant's request to speak to an on-site safety manager and quitting two days later afforded the employer an ample opportunity to address or resolve the issues the claimant was having with the workplace conditions. The evidence presented does not support that there was a specific incident or that the claimant was in imminent harm based upon the working conditions. Further, the claimant could have reasonably quit the assignment and requested a new assignment with the employer, (and explain concerns with the prior assignment) which would have allowed him to preserve employment. He chose not to do so.

Therefore, based on the evidence presented, the administrative law judge concludes the claimant may have had personally compelling reasons to quit the employment but that he has not established he quit for good cause attributable to the employer, according to Iowa law. Benefits are denied.

**DECISION:**

The August 13, 2019, (reference 07) unemployment insurance decision is affirmed. The claimant voluntarily left the 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.

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Jennifer L. Beckman  
Administrative Law Judge

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Decision Dated and Mailed

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