

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

FRANCISCO ORTIZ
Claimant

KATECHO INC
Employer

APPEAL 21A-UI-17261-CS-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/04/21
Claimant: Appellant (1)

Iowa Code §96.5(2)a-Discharge/Misconduct
Iowa Code §96.5(1)- Voluntary Quit

STATEMENT OF THE CASE:

On August 6, 2021, the claimant/appellant filed an appeal from the July 29, 2021, (reference 01) unemployment insurance decision that disallowed benefits based on claimant voluntarily quitting for personal reasons. The parties were properly notified about the hearing. A telephone hearing was held on September 29, 2021. Claimant participated at the hearing. Employer participated through Human Resource Generalist, Lindsey Bartmess.

ISSUE:

Was the separation a voluntary quit with good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on April 10, 2021. Claimant last worked as a full-time machine operator. Claimant was separated from employment on April 11, 2021, when he voluntarily quit.

Claimant began his first day of work. After work and through the night claimant's allergies began to flare up causing him to have a headache. Claimant attributes the flare up in the allergies to working with the chemicals that he came in contact with while he worked.

On April 11, 2021, claimant contacted the employer and told them that he could not do the job because he was having problems with his allergies reacting to being around the chemicals. Claimant did not make a request for a reasonable accommodation prior to his resignation. Later that day, claimant's supervisor, Joe Morahski, contacted claimant through text and offered to provide claimant a respirator so he could do the job and offered to move him to another area if that would not work. The claimant did not respond to Mr. Morahski's text. Claimant never returned to work.

REASONING AND CONCLUSIONS OF LAW:

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

Iowa Admin. Code r. 871-24.26(6)b provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(6) Separation because of illness, injury, or pregnancy.

b. Employment related separation. The claimant was compelled to leave employment because of an illness, injury, or allergy condition that was attributable to the employment. Factors and circumstances directly connected with the employment which caused or aggravated the illness, injury, allergy, or disease to the employee which made it impossible for the employee to continue in employment because of serious danger to the employee's health may be held to be an involuntary termination of employment and constitute good cause attributable to the employer. The claimant will be eligible for benefits if compelled to leave employment as a result of an injury suffered on the job.

In order to be eligible under this paragraph "b" an individual must present competent evidence showing adequate health reasons to justify termination; before quitting have informed the employer of the work-related health problem and inform the employer that the individual intends to quit unless the problem is corrected or the individual is reasonably accommodated. Reasonable accommodation includes other comparable work which is not injurious to the claimant's health and for which the claimant must remain available.

Claimant has the burden of proof to establish that the injury, illness or aggravation is work-related. *Shontz v. Iowa Employment Sec. Commission*, 248 N.W.2d 88, 91 (Iowa 1976). In this case, claimant has not met his burden.

In 1995, the Iowa Administrative Code was amended to include an intent-to-quit requirement added to rule 871-24.26(6)(b), the provision addressing work-related health problems. *Hy-Vee, Inc. v. Emp't Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005). A claimant must inform the employer that the individual intends to quit unless the problem is corrected or the individual is reasonably accommodated. See Iowa Admin. Code r. 871-24.26(6)b. Reasonable accommodation includes other comparable work which is not injurious to the claimant's health and for which the claimant must remain available. *Id.* Iowa Code § 216.6 (previously 601A.6) requires employers to make "reasonable accommodations" for employees with disabilities. Reasonable accommodation is required only to the extent that refusal to provide some accommodation would be discrimination itself. Reasonableness is a flexible standard measured in terms of an employee's needs and desires and by economic and other realities faced by the employer. *Sierra v. Emp't Appeal Bd.*, 508 N.W.2d 719 (Iowa 1993). See also *Foods, Inc. v. Iowa Civil Rights Comm'n*, 318 N.W.2d 162 (Iowa 1982) and *Cerro Gordo Care Facility v. Iowa Civil Rights Comm'n*, 401 N.W.2d 192 (Iowa 1987).

The claimant did not provide the employer with a notice of intent to quit to allow the employer time to make an accommodation. The claimant contacted the employer and told them that he was quitting. The claimant did not inform the employer prior to him quitting that he intended to quit unless a reasonable accommodation was made. Regardless, the employer reached out to the claimant and offered to provide him a respirator to see if that would help with the claimant's

allergies. The employer also offered to move the claimant to another area if that did not resolve the issue. Claimant did not respond to employer's text message so an accommodation could not be found prior to his resignation. Claimant has not met his burden of proof to establish the voluntary quit was attributable to the employer under Iowa Admin. Code r. 871-24.26(6)b. 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 according to Iowa law. Benefits are denied.

DECISION:

The July 29, 2021 (reference 01) unemployment insurance decision is affirmed. Claimant voluntarily quit the employment without good cause attributable to employer. Unemployment benefits are withheld in regards to this employer until such time as claimant is deemed eligible.



Carly Smith
Administrative Law Judge
Unemployment Insurance Appeals Bureau

September 30, 2021
Decision Dated and Mailed

cs/ol

NOTE TO CLAIMANT:

- This decision determines you are not eligible for regular unemployment insurance benefits under state law. 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.