

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**RICHARD VRATNY**  
Claimant

**DECKER TRUCK LINE INC**  
Employer

**APPEAL 17A-UI-12833-NM-T**  
**ADMINISTRATIVE LAW JUDGE**  
**DECISION**

**OC: 08/27/17**  
**Claimant: Appellant (1)**

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Iowa Code § 96.5(1) – Voluntary Quitting

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the December 1, 2017, (reference 04) unemployment insurance decision that denied benefits based on his voluntary quit. The parties were properly notified of the hearing. A telephone hearing was held on January 9, 2018. The claimant was not available to participate at his telephone number at the scheduled hearing time and did not request that the hearing be postponed. Rather claimant's written statement was admitted into evidence as an exhibit in lieu of his telephone participation. The employer participated through Director of Human Resources Courtney Bachel. Employer's Exhibits 1 and 2 were received into evidence.

**ISSUE:**

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: Claimant was employed full time as a maintenance support assistant from October 30, 2017, until this employment ended on November 8, 2017, when he voluntarily quit.

On November 8, 2017, claimant walked off the job in the middle of his shift, telling his coworkers he was not catching on to the job duties and was not going to waste anyone's time. Two days later, on November 10, 2017, claimant sent in an email confirming he was resigning because he did not feel he could learn the job and did not want to waste his supervisor's time. (Exhibit 2). In that same email claimant asked about the possibility of being hired in another open position for the same employer. Bachel testified had claimant not resigned, work would have continued to be available to him.

According to claimant's written statement he resigned because of issues with the work environment. Specifically, claimant alleged the group he was training with would make fun of people, use sexually explicit language, talk about prior criminal convictions, and speak poorly of another employee who was a friend of his. According to the written statement claimant resigned

in part due to this behavior and in part due to inadequate training he was receiving. Bachel testified the employer was not made aware of any of these issues prior to claimant's fact-finding interview. Following the fact-finding interview Bachel investigated the allegations but was unable to confirm they were true. Bachel testified there have been no other complaints of such behavior. Bachel also noted that one day prior to claimant's resignation he was presented with a survey where he could have addressed these concerns, but he did not fill out the survey.

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

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:

- (33) The claimant left because such claimant felt that the job performance was not to the satisfaction of the employer; provided, the employer had not requested the claimant to leave and continued work was available.

Iowa Admin. Code r. 871-24.26(4) 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:

- (4) The claimant left due to intolerable or detrimental working conditions.

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 decision in this case rests, at least in part, on the credibility of the witnesses. 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.*

There is a dispute between the parties as to the reasons for claimant's resignation. After assessing the credibility of the witnesses who testified during the hearing, reviewing the exhibits submitted by the parties, considering the applicable factors listed above, and using her own common sense and experience, the administrative law judge finds the employer's version of events to be more credible than the claimant's recollection of those events. Here, the claimant's written testimony not only contradicts the employer's version of events, but also his own statements in his written resignation. It was reported to the employer by claimant's coworkers that he resigned because he did not feel he could learn to the job, this was confirmed by claimant in his November 10 email. Bachel provided credible testimony that she investigated the allegations made by the claimant and that they could not be confirmed. Furthermore, it is not logical that if claimant resigned due to intolerable working conditions, he would inquire as to other employment opportunities with this employer. While claimant's leaving 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 December 1, 2017, (reference 04) unemployment insurance decision is affirmed. 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.

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Nicole Merrill  
Administrative Law Judge

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Decision Dated and Mailed

nm/rvs