

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

VICTOR M MENDOZA GOMEZ
Claimant

APPEAL NO: 10A-UI-14569-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MERCY HOSPITAL
Employer

OC: 09/19/10

Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Victor M. Mendoza Gomez (claimant) appealed a representative's October 15, 2010 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits after a separation from employment from Mercy Hospital (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on December 10, 2010. The claimant participated in the hearing. Doug Willyard appeared on the employer's behalf. Ike Rocha served as interpreter. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit for a good cause attributable to the employer?

FINDINGS OF FACT:

The claimant started working for the employer on November 10, 2008. He worked full time as a linen distribution technician in the employer's laundry department, normally working a 9:00 a.m. to 5:00 p.m. schedule. His last day of work was August 12, 2010. He walked out during his shift at about 2:30 p.m. that day.

At about 2:15 p.m. that day the claimant had an argument with a coworker who was trying to boss the claimant around. The coworker asked the claimant if he wanted to fight, and the claimant was afraid that if he did engage in a physical altercation with the coworker, the coworker could be seriously injured because of martial arts training the claimant possessed. The coworker was scheduled to get off work and leave at 3:00 p.m. Because of being mad at the coworker and being concerned he could injure the coworker, the claimant left at about 2:30 p.m., rather than seeking out a manager or a human resources advisor to whom he could report the problem, or rather than waiting out the half-hour until the coworker would leave for the day. The claimant did not subsequently return to work, and on about August 17 he received a letter indicating that the employer was considering him to have abandoned his job.

REASONING AND CONCLUSIONS OF LAW:

If the claimant voluntarily quit his employment, he is not eligible for unemployment insurance benefits unless it was for good cause attributable to the employer. Iowa Code § 96.5-1.

Rule 871 IAC 24.25 provides that, 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. A voluntary leaving of employment requires an intention to terminate the employment relationship and an action to carry out that intent. Bartelt v. Employment Appeal Board, 494 N.W.2d 684 (Iowa 1993); Wills v. Employment Appeal Board, 447 N.W.2d 137, 138 (Iowa 1989). The intent to quit can be inferred in certain circumstances. For example, leaving scheduled work and failing to report and perform duties as assigned is considered to be a voluntary quit. 871 IAC 24.25(27). The claimant did exhibit the intent to quit and did act to carry it out. The claimant would be disqualified for unemployment insurance benefits unless he voluntarily quit for good cause.

The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. Leaving because of a dispute with a coworker is not good cause. 871 IAC 24.25(6). The claimant has not satisfied his burden. Benefits are denied.

DECISION:

The representative's October 15, 2010 decision (reference 01) is affirmed. The claimant voluntarily left his employment without good cause attributable to the employer. As of August 12, 2010, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/css