

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TERRY F MAHAN
Claimant

APPEAL 15A-UI-08372-EC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

IAC IOWA CITY LLC
Employer

OC: 07/05/15
Claimant: Appellant (1)

Iowa Code §96.5(1) – Voluntary Quit
Iowa Admin. Code r. 871-24.25 – Voluntary Quit
Iowa Code § 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

The claimant/appellant, Terry Mahan, filed an appeal from the July 20, 2015, (reference 01) unemployment insurance decision that denied benefits based upon a voluntary quit. The parties were properly notified about the hearing. A telephone hearing was held on August 18, 2015. The claimant participated. The employer, IAC Iowa City LLC, participated through Ron Udell, HR Manager.

ISSUE:

Was the separation from employment a voluntary quit with or without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as an assembler or a finisher from January 10, 2014, until this employment ended on May 4, 2015, when he came into work, clocked in, worked for about 15 minutes, and then left the facility without notifying his employer that he was doing so.

The last day the claimant worked a full day was April 29, 2015. The HR Manager issued a one-day suspension to be served on Friday, May 1, 2015. The claimant was expected to return to work on Monday, May 4, 2015. (Udell testimony)

The claimant received two prior warnings, on February 17, 2015; and on March 13, 2015. The one-day suspension was the next step in the employer's disciplinary process. (Udell testimony)

The claimant stated that he was scheduled for vacation on May 4, 2015. (Mahan testimony)
However, the employer did not have any such vacation request on file. (Udell testimony)

The employer did not hear directly from the claimant after he left work on Monday, May 4, 2015. Mr. Udell received a telephone call from the claimant's mother on May 8, 2015. Additional conversations occurred between the claimant's representatives and the employer's HR staff in May and early June of 2015. The claimant did not return to work for this employer after May 4, 2015.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant was not discharged but voluntarily quit the employment without good cause attributable to employer.

Iowa Code § 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(20) 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 § 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 § 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:

(20) The claimant left for compelling personal reasons; however, the period of absence exceeded ten working days.

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 claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). Generally, when an individual mistakenly believes they are discharged from employment, but was not told so by the employer, and they discontinue reporting for work, the separation is considered a quit without good cause attributable to the employer. *LaGrange v. Iowa Dep't of Job Serv.*, (No. 4-209/83-1081, Iowa Ct. App. filed June 26, 1984).

It is my duty, as the administrative law judge and 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, as the finder of fact, 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. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996).

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 evidence you believe; 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. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996).

I assessed the credibility of the witnesses who testified during the hearing, considering the applicable factors listed above, and using my own common sense and experience. I find the Employer's recollection of the pertinent events to be more credible than the Claimant's recollection of those events. The Claimant exhibited a selective memory of several relevant incidents, but did not deny that he left work on May 4, 2015.

The credible evidence clearly shows that the claimant walked off the job after working for 15 minutes of his full-day shift. This conduct followed a one-day suspension. The claimant took a deliberate action to leave the employer's facility on May 4, 2015, demonstrating his intention to quit this employment and carrying out that intention. Benefits are denied.

DECISION:

The July 20, 2015, (reference 01) decision is affirmed. Benefits are denied. Claimant voluntarily quit the employment without good cause attributable to 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.

Emily Gould Chafa
Administrative Law Judge

Decision Dated and Mailed

ec/pjs