

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JOHN S RIPSlinger
Claimant

APPEAL 21A-UI-04402-S2-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

DAVENPORT COMMUNITY SCH DIST
Employer

**OC: 11/29/20
Claimant: Appellant (4)**

Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed an appeal from the January 25, 2021, (reference 01) unemployment insurance decision that denied benefits based upon his voluntary quit. The parties were properly notified about the hearing. A telephone hearing was held on March 31, 2021. Claimant John S. Ripslinger participated and testified. Employer Davenport Community School District participated through human resources generalist Nicole Stroup. The administrative law judge took official notice of the administrative record.

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 teacher from August 18, 1988, until June 9, 2020, when he quit. Claimant left his employment to take early retirement.

Claimant's wage records show the following wages reported for the third and fourth quarters of 2020:

EMPLOYER	ACCT-LOC	2020/3	2020/4
DAVENPORT COMMUNITY SCH D	103399-000	20097	
CITY OF DAVENPORT	103379-000	4888	2939

Claimant testified that he worked for the City of Davenport after separating from Davenport Community School District.

The administrative record reflects that since the separation from this employment the claimant has worked in and been paid insured wages of at least ten times his weekly benefit amount. Working for the City of Davenport, claimant earned \$7,827.00 in wages. His weekly benefit amount for 2020 was \$493.00.

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:
needs.

(24) The claimant left employment to accept retirement when such claimant could have continued working.

Iowa Code section 96.5(1)g 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. But the individual shall not be disqualified if the department finds that:

g. The individual left work voluntarily without good cause attributable to the employer under circumstances which did or would disqualify the individual for benefits, except as provided in paragraph "a" of this subsection but, subsequent to the leaving, the individual worked in and was paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

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).

In this case, claimant quit his employment with the employer to take early retirement. The claimant's separation from this employer is disqualifying. However, the administrative law judge further concludes from information contained in the administrative record that the claimant has requalified for benefits since the separation from this employer. Accordingly, benefits are allowed and the account of the employer (account number 103399) shall not be charged.

DECISION:

The January 25, 2021, (reference 01) unemployment insurance decision is modified in favor of the appellant. The claimant quit without good cause attributable to the employer, but has requalified for benefits since the separation. Benefits are allowed, provided the claimant is otherwise eligible. The account of the employer shall not be charged.



Stephanie Adkisson
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April 02, 2021
Decision Dated and Mailed

sa/ol