

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

---

**RONALD D RIVAS**  
Claimant

**APPEAL 20A-UI-03941-ED-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**JUNCTION HOLDINGS OF IOWA INC**  
Employer

**OC: 02/09/20**  
**Claimant: Appellant (1)**

---

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

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the April 30, 2020, (reference 02) unemployment insurance decision that denied benefits based upon his voluntary quit. The parties were properly notified of the hearing. A telephone hearing was held on May 26, 2020. The claimant Ronald Rivas participated and testified. The employer Junction Holdings of Iowa Inc. participated through hearing representative Debbie Swander and Juanita Cameron. Claimant's Exhibit A and Employer's Exhibits 1-17 were received into evidence. Official Notice was taken of the administrative record, specifically portions involving what benefits Claimant has received to date.

**ISSUE:**

Did claimant voluntarily leave the employment with good cause attributable to the employer or did employer discharge the claimant for reasons related to job misconduct sufficient to warrant a denial of benefits?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed part-time as a maintenance worker from June of 2016, until his employment ended on March 6, 2020, when he voluntarily quit.

On February 3, 2020, claimant was instructed to begin reporting to senior employee, Rick. Rick had worked with the company for over 24 years. Claimant's hours were also reduced at that time. Claimant began working 9:00 to 1:00 instead of 9:00 to 3:30. Between February 3, 2020 and March 6, 2020, claimant was accused of being tardy nine times and his supervisor was unable to locate him at times while at work.

March 6, 2020 was Claimant's last day working his shift. Claimant testified that on December 31, 2019, he submitted a request for vacation for the week of March 6, 2020. Claimant was unable to verify that this request was received by anyone in the company and he was unable to provide a copy of the request he claimed to have submitted to the office. Claimant testified that he never received confirmation that his request had been either approved or denied.

Claimant was scheduled to work during the week of March 9, however, his employer considered him a no call, no show. Claimant did not look at the schedule to see if he was scheduled to work. Sometime during the week of March 16, Claimant appeared at the work location to retrieve his paycheck. While at the work location, he encountered employee Juanita Cameron. Ms. Cameron asked the Claimant "Where have you been?" Claimant responded that he was sick on Monday, March 6 and that he took that as a sign. He then retrieved his paycheck and left the premises. Claimant did not return to work after that date. Debbie Swander testified that had claimant reported for work, they would have continued scheduling him for shifts as he had skills that were useful to the organization. Debbie testified that she would have had him continue to report to senior employee, Rick, in an effort to put Claimant back on the right path.

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

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

Iowa Code § 96.5(2)a provides:

An individual shall be disqualified for benefits:

Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

Iowa Code §96.5(1) provides:

An individual shall be disqualified for benefits:

Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

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.

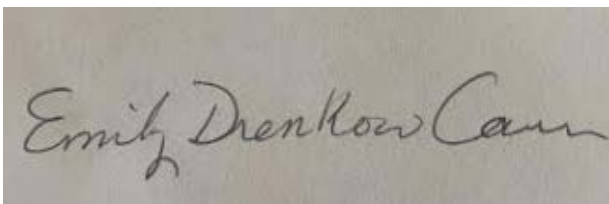
After assessing the credibility of the witnesses who testified during the hearing, reviewing the exhibits submitted by the parties, considering the applicable factors listed above, and using her own common sense and experience, the administrative law judge finds the employer's version of events to be more credible than the claimant's recollection of those events.

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) (amended 1998). 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). Since claimant did not follow up with company personnel, the decision to leave work and failure to continue reporting to work was an abandonment of the job. Benefits are denied.

Note to Claimant: This decision determines you are not eligible for regular unemployment insurance benefits. 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. Individuals who do not qualify for regular unemployment insurance benefits due to disqualifying separations, but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). You will need to apply for PUA to determine your eligibility under the program. Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.

**DECISION:**

The April 30, 2020, (reference 02) unemployment insurance decision is affirmed. Claimant voluntarily left the employment without good cause attributable to employer. Benefits are withheld until such time as he is otherwise eligible.

A photograph of a handwritten signature in dark ink on a light-colored surface. The signature reads "Emily Drenkow Carr" in a cursive, flowing script.

---

Emily Drenkow Carr  
Administrative Law Judge

June 30, 2020  
Decision Dated and Mailed

ed/scn