

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MARCUS M MAJERCZYK
Claimant

APPEAL 21A-UI-13887-JC-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

MJT MARINE INC

OC: 03/21/21
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

Claimant/Appellant, Marcus M. Majerczyk, filed an appeal from the June 2, 2021 (reference 01) unemployment insurance decision that denied benefits. After due notice was issued, a hearing was held on August 18, 2021. The hearing was held together with Appeal 21A-UI-13888-JC-T. Claimant participated personally. Scott Maulsby testified for the employer. Official notice was taken of the administrative record. Department Exhibit D-1 and Claimant Exhibits A-C were admitted.

ISSUE:

ant 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: The claimant worked for this employer full-time as a driver and parts manager until March 24, 2020 when he quit the employment. Continuing work was available.

Claimant initiated separation when notifying the employer he was unable to work due to his daughter being high risk if exposed to COVID-19. Employer did not have work for claimant to do that would allow him to remain away from other employees or the public. Had claimant not quit, there was work for him to do.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant quit the employment and was not laid off.

Iowa unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code §§ 96.5(1) and 96.5(2)a. They remain disqualified until such time as they requalify for benefits by working and earning insured wages ten times their weekly benefit amount. *Id.*

A voluntary quitting of employment requires that an employee exercise a voluntary choice between remaining employed or terminating the employment relationship. *Wills v. Emp't Appeal Bd.*, 447 N.W.2d 137, 138 (Iowa 1989); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438, 440 (Iowa Ct. App. 1992). 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).

Iowa Admin. Code r. 871-24.1(113)a provides:

Separations. All terminations of employment, generally classifiable as layoffs, quits, discharges, or other separations.

a. Layoffs. A layoff is a suspension from pay status initiated by the employer without prejudice to the worker for such reasons as: lack of orders, model changeover, termination of seasonal or temporary employment, inventory-taking, introduction of laborsaving devices, plant breakdown, shortage of materials; including temporarily furloughed employees and employees placed on unpaid vacations.

Iowa Admin. Code r. 871-24.25(23) 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:

(23) The claimant left voluntarily due to family responsibilities or serious family needs.

Claimant was not involuntarily unemployed due to a lack of work or by no fault of his own. Claimant requested and chose to take a voluntary layoff rather than perform work to protect his daughter's health.

The administrative law judge is sympathetic to the claimant's situation. While claimant had good personal reasons for quitting his job, those reasons are not attributable to the employer. Claimant has not established that the working conditions were unsafe, intolerable or detrimental. Claimant has not met his burden of proving good cause attributable to employer. Regular state-funded unemployment insurance benefits are denied.

This decision does not negatively impact any application or allowance of Pandemic Unemployment Assistance (PUA) benefits.

DECISION:

The June 2, 2021, (reference 03) unemployment insurance decision is affirmed. The claimant voluntarily quit the employment without good cause attributable to the employer. Regular, state-funded 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.



Jennifer L. Beckman
Administrative Law Judge
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August 23, 2021
Decision Dated and Mailed

jlb/mh

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, but who are unemployed or continue to be 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>. If this decision becomes final or if you are not eligible for PUA, you may have an overpayment of benefits.

ATTENTION: On May 11, 2021, Governor Reynolds announced that Iowa will end its participation in federal pandemic-related unemployment benefit programs effective June 12, 2021. The last payable week for PUA in Iowa will be the week ending June 12, 2021. Additional information can be found in the press release at <https://www.iowaworkforcedevelopment.gov/iowa-end-participation-federal-unemployment-benefit-programs-citing-strong-labor-market-and>.

You may find information about food, housing, and other resources at <https://covidrecoveryiowa.org/> or at <https://dhs.iowa.gov/node/3250>

Iowa Finance Authority also has additional resources at <https://www.iowafinance.com/about/covid-19-ifa-recovery-assistance/>