

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TANNER M HORSFIELD
Claimant

RAGAN MECHANICAL INC
Employer

APPEAL 21A-UI-08473-AR-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 02/07/21
Claimant: Appellant (2)**

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

On March 26, 2021, claimant, Tanner M. Horsfield, filed an appeal from the March 18, 2021, reference 01, unemployment insurance decision that denied benefits based upon the determination that claimant quit his employment with employer, Ragan Mechanical, Inc., without showing good cause for doing so. The parties were properly notified about the hearing held by telephone on May 27, 2021. The claimant participated personally. The employer did not participate.

ISSUE:

Did claimant quit with good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed full-time as an apprentice plumber beginning on August 15, 2018, and was separated from employment in October 2020, when he resigned.

Claimant reported to Foreman Bryan Deloose. For the year in which claimant reported to Deloose, Deloose referred to him as “faggot” and “homo” on a daily basis. Additionally, on one occasion approximately eight months before claimant resigned, Deloose threw a screwdriver at him. The conduct occurred in front of coworkers, and the employer was aware of Deloose’s conduct. Claimant did not speak to anyone in management about the conduct prior to his resignation. He worried that, if he angered Deloose, he would be removed from Deloose’s team, which would effectively result in the end of his employment. He had witnessed this occur with at least one other apprentice who angered Deloose. He explained that there were few other plumbing foremen with whom he could apprentice at the employer. The other foremen had few apprentices and did not do plumbing exclusively; they also did servicing. Deloose also referred to others with offensive or objectionable names. Claimant characterized the conduct as typical of Deloose.

In October 2020, claimant felt he could not take Deloose’s conduct anymore, and submitted his two-week notice to Deloose and Deloose’s boss. He told Deloose that he had found another

job. He told Deloose's boss about the objectionable conduct during his final two weeks of employment, but received no meaningful response to his complaint.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant voluntarily left the employment with good cause attributable to the employer.

Iowa Code § 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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—24.26(3) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(3) The claimant left due to unlawful working conditions.

Iowa Admin. Code r. 871—24.26(4) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(4) The claimant left due to intolerable or detrimental working conditions.

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 notice of an intent to quit had been required by *Cobb v. Emp't Appeal Bd.*, 506 N.W.2d 445, 447–78 (Iowa 1993), *Suluki v. Emp't Appeal Bd.*, 503 N.W.2d 402, 405 (Iowa 1993), and *Swanson v. Emp't Appeal Bd.*, 554 N.W.2d 294, 296 (Iowa Ct. App. 1996). Those cases required an employee to give an employer notice of intent to quit, thus giving the employer an opportunity to cure working conditions. However, in 1995, the Iowa Administrative Code was amended to include an intent-to-quit requirement. The requirement was only added to rule 871—24.26(6)(b), the provision addressing work-related health problems. No intent-to-quit requirement was added to rule 871—24.26(4), the intolerable working conditions provision. Our supreme court recently concluded that, because the intent-to-quit requirement was added to rule 871—24.26(6)(b) but not 871—24.26(4), notice of intent to quit is not required for intolerable working conditions. *Hy-Vee, Inc. v. Emp't Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005).

Ordinarily, "good cause" is derived from the facts of each case keeping in mind the public policy stated in Iowa Code section 96.2. *O'Brien v. Emp't Appeal Bd.*, 494 N.W.2d 660, 662 (Iowa

1993) (citing *Wiese v. Iowa Dep't of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986)). "The term encompasses real circumstances, adequate excuses that will bear the test of reason, just grounds for the action, and always the element of good faith." *Wiese*, 389 N.W.2d at 680. "[C]ommon sense and prudence must be exercised in evaluating all of the circumstances that lead to an employee's quit in order to attribute the cause for the termination." *Id.* Where multiple reasons for the quit, which are attributable to the employment, are presented the agency must "consider that all the reasons combined may constitute good cause for an employee to quit, if the reasons are attributable to the employer". *McCunn v. Emp't Appeal Bd.*, 451 N.W.2d 510 (Iowa App. 1989) (citing *Taylor v. Iowa Dep't of Job Serv.*, 362 N.W.2d 534 (Iowa 1985)).

Claimant has credibly alleged conduct that likely amounts to a hostile work environment based on the frequency and duration of the conduct. He has alleged conduct that may be in violation of the legal protections set out by the Iowa Civil Rights Act. The employer did not participate, and did not rebut claimant's claims. Viewing the conduct holistically, claimant's work environment was intolerable and gave rise to a good-cause reason for leaving the employment.

DECISION:

The March 18, 2021, (reference 01) unemployment insurance decision is reversed. Claimant voluntarily left the employment with good cause attributable to the employer. Benefits are allowed, provided he is otherwise eligible. Any benefits claimed and withheld on this basis shall be paid.



Alexis D. Rowe
Administrative Law Judge

June 14, 2021
Decision Dated and Mailed

ar/kmj