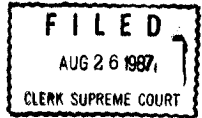


IN THE COURT OF APPEALS OF IOWA



DONALD A. GREENLEE,)

Petitioner-Appellant,)

Filed August 26, 1987

vs.)

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PESTER MARKETING COMPANY and)
IOWA DEPARTMENT OF JOB SERVICE,)
n/k/a DEPARTMENT OF EMPLOYMENT)
SERVICES,)

7-305
86-1855

Respondents-Appellees.)

Appeal from the Iowa District Court for Polk County (No. AA-1036), Joel
D Novak, Judge.

The petitioner appeals from the district court's affirmance of the Department of Employment Services' decision denying him unemployment benefits for voluntary quitting without good cause attributable to his employer.

AFFIRMED.

Mark R. Schuling and Larry L. Seckington of Brick, Seckington, Bowers, Swartz & Gentry, P.C., Des Moines, for petitioner-appellant.

John G. Fletcher of Brown, Winick, Graves, Connelly, Baskerville, & Schoenebaum, Des Moines, for respondent-appellee Pester Marketing Company.

Blair H. Dewey and William C. Whitten, Des Moines, for respondent-appellee Department of Employment Services.

Considered by Donielson, P.J., and Schlegel and Sackett, JJ.

PER CURIAM

Claimant Donald A. Greenlee appeals from the district court decision affirming the decision of the Department of Employment Services denying him unemployment benefits for voluntarily quitting his job without good cause attributable to his employer. Claimant contends he had good cause for quitting due to: (1) his employer's deductions from his wages, pursuant to an allegedly illegal contract, for losses sustained at the service station which he managed, and (2) intolerable or detrimental working conditions. We affirm.

Claimant was employed by Pester Marketing Company as a station manager from May 13, 1985, to December 3, 1985. At the commencement of his employment, claimant signed a "memorandum of responsibility and compensation program." This document sets forth the terms of claimant's employment. The contract provides that claimant was to be responsible for all losses of and shortages of cash at his station. Furthermore, in the event of burglary or robbery, the claimant was to be responsible for most of the cash, checks, and credit card invoices lost thereby. The weekend of December 2, 1985, losses of \$900 occurred at claimant's station. Claimant paid Pester \$600 as a result of this loss before he terminated his employment on December 3, 1985.

Claimant filed for unemployment benefits with the Department of Employment Services (formerly known as the Department of Job Service), claiming he was entitled to benefits because he was forced to resign due to deductions that his employer was making from his wages. A department representative determined that he was entitled to benefits, ruling that he had quit for good cause attributable to Pester due to detrimental working conditions. Pester appealed, and a hearing officer reversed the representative's decision. Upon further appeal, the Appeal Board affirmed the hearing officer's decision. After being denied rehearing by the department, claimant filed a petition for judicial

review with the district court. Following a hearing, the district court affirmed the department's decision. Claimant now appeals to this court.

In cases arising out of the Iowa Administrative Procedures Act, our scope of review is limited to the correction of errors of law and not de novo. Messina v. Iowa Dept. of Job Service, 341 N.W.2d 52, 59 (Iowa 1983); Iowa Code § 17A.20 (1985). In order to uphold the decision of the Appeal Board, such decision must be supported by substantial evidence in the record before the agency when the record is reviewed as a whole. Fernandez v. Iowa Dep't of Human Services, 375 N.W.2d 701, 705 (Iowa 1985). Evidence is substantial to support an agency's decision if a reasonable person would find it adequate to reach the given conclusion. Meads v. Iowa Dep't of Social Services, 366 N.W.2d 555, 558 (Iowa 1985). Though two inconsistent conclusions may be drawn from the record, such a possibility does not prevent the agency's finding from being supported by substantial evidence. Contract Services, Ltd. v. Iowa Dep't of Job Service, 372 N.W.2d 212, 215-16 (Iowa 1985). In order to make that determination, we apply the standards of Iowa Code section 17A.19(8) to the agency action to determine whether this court's conclusions are the same as the district court. Jackson County Public Hospital v. Public Employment Relations Board, 280 N.W.2d 426, 429-30 (Iowa 1979).

Iowa Code section 96.5(1) (1985) provides that an individual shall be disqualified for benefits if the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department. The department has set forth grounds to be considered "good cause" for voluntary termination. 370 Iowa Admin. Code 4.26 (1986). Claimant claims he falls within one or both of the following subparagraphs:

3. The claimant left due to unlawful working conditions;

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

We believe, upon examining the record as a whole, that there is substantial evidence in the record to support the final agency's actions. The claimant signed the memorandum of responsibility and compensation program wherein he agreed to the terms of employment, which included loss deduction provisions. Claimant reimbursed the company for losses in the past. Claimant quit his employment voluntarily because he was expected to make up the \$900 loss. Claimant did not want to comply with the terms of the contract which he agreed to when hired. Claimant alleges the contract is illegal, pursuant to Iowa Code section 91A.5(2) (1985), which proscribes deductions from an employee's wages as a result of certain losses. However, this same section provides an exception for contracting for such losses between an employer and a full-time manager.

Based on the foregoing substantial evidence, and pursuant to Iowa Code section 96.5(1) (1985), we find that claimant did not have good cause for leaving his employment based on both his allegations of working under an illegal contract and being employed under intolerable or detrimental working conditions. Therefore, benefits should be denied.

The department's finding concerning the reason claimant left his employment is supported by substantial evidence in the record when viewed as a whole.

AFFIRMED.