

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

ANDREW S WEEKS
Claimant

APPEAL NO. 08A-UI-10419-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

THE HON COMPANY
Employer

OC: 09/28/08 R: 12
Claimant: Appellant (1)

Iowa Code Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed a timely appeal from the November 7, 2008, reference 02, decision that denied benefits. After due notice was issued, a hearing was held on November 20, 2008. Claimant participated. Josh Blair, Member and Community Relations Generalist, represented the employer.

ISSUE:

Whether the claimant's voluntary quit was for good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Andrew Weeks was employed by The Hon Company as a full-time grade 3 welder from April 3, 2007 until July 23, 2008, when he voluntarily quit in response to a reprimand. Mr. Week's immediate supervisor was Group Lead Phyllis Henderson. On April 25, 2008 Mr. Weeks injured his back in a non-work-related incident. In May, Mr. Weeks underwent back surgery. Mr. Weeks' physician subsequently released Mr. Weeks to return to work without restrictions and Mr. Weeks returned to his previous duties on July 7, 2008. Thereafter, Mr. Weeks bid for, or applied to transfer to, a less physically taxing position with sister company Allsteel. Mr. Weeks participated in an interview and was offered the new position. On July 18 or 19, Mr. Weeks went to Allsteel for the purpose of completing paperwork associated with the pending transfer to the new position. Mr. Weeks had called in absences to The Hon Company on July 18 and 19 due to the illness of his minor child. Mr. Weeks had arranged for another family member to care for the sick child so that he could go to Allsteel to complete the transfer paperwork.

On July 23, 2008, Group Lead Phyllis Henderson and Member and Community Relations Generalist Josh Blair met with Mr. Weeks for the purpose of issuing a reprimand for attendance. Mr. Blair had incurred four "instances" within a six month period, which subjected him to disciplinary action. The most recent "instance" that had triggered the reprimand was the July 18-19 absence. Pursuant to the shared policies of The Hon Company and Allsteel, the reprimand made Mr. Weeks ineligible to transfer to a new position for a six-month period. Allsteel rescinded the transfer opportunity. The employer continued to have work available for

Mr. Weeks in the position he had held up to that point. Mr. Weeks elected to voluntarily quit the employment, rather than continue in the employment after the loss of the transfer opportunity. Mr. Weeks' doctor had not recommended that leave the employment.

REASONING AND CONCLUSIONS OF LAW:

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.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

Where a person voluntarily quits in response to receiving a reprimand, the quit is presumed to be without good cause attributable to the employer. See 871 IAC 24.25(28).

The weight of the evidence indicates that Mr. Weeks voluntarily quit in response to the reprimand the employer issued on July 23, 2008 and the associated loss of the transfer opportunity. Based on the evidence and the applicable law, the administrative law judge concludes that Mr. Weeks' voluntary quit was without good cause attributable to the employer. Accordingly, Mr. Weeks is disqualified for benefits until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The employer's account shall not be charged for benefits paid to Mr. Weeks.

DECISION:

The Agency representative's November 7, 2008, reference 02 decision is affirmed. The claimant voluntarily quit the employment without good cause attributable to the employer. The claimant is disqualified for benefits until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The employer's account shall not be charged.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs