

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ERIC M NATION**  
Claimant

**APPEAL NO. 12A-UI-07987-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**JASPER COUNTY**  
Employer

**OC: 05/27/12**  
**Claimant: Appellant (1)**

Section 96.5(1) – Voluntary Quit

**STATEMENT OF THE CASE:**

Eric Nation filed a timely appeal from the June 27, 2012, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on July 25, 2012. Mr. Nation participated. Dennis Simon, Jasper County Director of Human Resources, represented the employer and presented testimony through Mike Balmer, Jasper County Sheriff, and John Halferty, Chief Deputy.

**ISSUE:**

Whether Mr. Nation'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: Eric Nation was employed by the Jasper County Sheriff's Office as a full-time Deputy Sheriff from 1997 until May 25, 2012, when he voluntarily quit, upon the advice of legal counsel, to avoid submitting to an investigative interview into his alleged misuse of County property and alleged misconduct with informants. Mr. Nation held the rank of Lieutenant Deputy Sheriff at the time of the separation. Mr. Nation had been assigned to the Mid Iowa Narcotics Enforcement Task Force.

On May 17, Mr. Nation's immediate supervisor, Chief Deputy John Halferty, had used mild subterfuge to get Mr. Nation to the Jasper County Sheriff's Office, where representatives of the Iowa Division of Criminal Investigations were waiting to interview Mr. Nation as part of a criminal investigation into his alleged criminal conduct. The DCI wanted to conduct the interview as a cold contact, one where Mr. Nation did not have prior opportunity to ponder or prepare responses to anticipated questions. Chief Deputy Halferty contacted Mr. Nation and asked him to come to the Sheriff's Office to assist with an internal investigation concerning another employee. When Mr. Nation arrived, Sheriff Balmer greeted him and directed him to a chair in an interview room. Because the DCI did not want Mr. Nation armed during their interview, Chief Deputy Halferty went through the steps he would ordinarily go through while imposing administrative leave. He requested that Mr. Nation provide his service gun, his work phone, and his badge. The DCI representatives then proceeded with their interview.

After the DCI completed the interview, Chief Deputy Halferty notified Mr. Nation that he was being placed on administrative leave pending the employer's administrative investigation into his alleged misconduct. The Chief Deputy gave Mr. Nation the choice of sitting for an administrative investigative interview at that time or scheduling the interview for a later date. Mr. Nation elected to schedule the administrative interview for a later date.

The administrative interview was subsequently set for May 25, 2012. On May 24, Mr. Nation notified the Chief Deputy that he would be resigning from the employment in lieu of participating in the administrative investigative interview and that he was doing so on the advice of counsel. On May 25, Mr. Nation arrived at the workplace for the sole purpose of tendering his resignation and did in fact tender a written resignation. The resignation was not in lieu of discharge from the employment. The employer had not indicated to Mr. Nation that the employer was preparing to discharge him from the employment.

In making the decision to separate from the employment, Mr. Nation considered, as minor factors, other recent incidents. A couple months earlier, the employer had feigned ignorance when Mr. Nation asked whether the employer knew why a Department of Human Service representative wanted to speak with him. Mr. Nation was at that point the focus of a DHS investigation. Mr. Nation also considered the employer's failure to transfer him off of the narcotics task force assignment to patrol supervisory duties. The proposed transfer had been discussed in connection with a recent reprimand.

#### **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.

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See 871 IAC 24.26(4). The test is whether a reasonable person would have quit under the circumstances. See Aalbers v. Iowa Department of Job Service, 431 N.W.2d 330 (Iowa 1988) and O'Brien v. Employment Appeal Bd., 494 N.W.2d 660 (1993). Aside from quits based on medical reasons, prior notification of the employer before a resignation for intolerable or detrimental working conditions is not required. See Hy-Vee v. EAB, 710 N.W.2d (Iowa 2005).

On the other hand, voluntary quits in response to a reprimand, are presumed to be without good cause attributable to the employer. See Iowa Admin. Code section 871 IAC 24.25(28).

The weight of the evidence establishes that Mr. Nation voluntarily quit to avoid submitting to an administrative investigative interview into his alleged misconduct. The weight of the evidence

indicates that Mr. Nation quit upon the advice of legal counsel as a strategic move designed to help him avoid making further statements that might be used against him at some later point, presumably as part of a criminal prosecution. A quit for this reason would be for compelling personal reasons, but would not be for good cause attributable to the employer.

The weight of the evidence indicates that Mr. Nation's other concerns about being misled or about not getting the transfer were not the primary basis for the quit, but instead were ancillary concerns. The employer's conduct on May 17 in connection with the DCI interview, in connection with the planned administrative investigative interview, and in connection with DHS investigation did not amount to intolerable or detrimental working conditions. The employer was under no obligation to shield Mr. Nation from, or assist Mr. Nation with, either a criminal investigation into his alleged criminal conduct, an administrative inquiry into his alleged work-related misconduct, or a DHS investigation into his conduct. On the contrary, the employer had an interest and obligation in cooperating with any criminal investigation, administrative investigation, or DHS investigation concerning one of its officers. The mild subterfuge the employer used to get Mr. Nation to the Sheriff's Office for the DCI interview appears to have been nothing more than standard law enforcement tactics, the likes of which Mr. Nation probably employed many times during his law enforcement career. As such, there would be little reason for Mr. Nation to be taken aback when he became the focus of the investigation and these were used on him. The same logic applies to the employer's decision not to disclose its knowledge concerning the DHS investigation prior to the DHS interview. The employer was under no obligation to transfer Mr. Nation to another area of operations within a particular timeframe and the lack of transfer did not give rise to intolerable or detrimental working conditions or a change in the contract of hire.

Mr. Nation voluntarily quit the employment without good cause attributable to the employer. Accordingly, Mr. Nation 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.

**DECISION:**

The Agency representatives June 27, 2012, reference 01, 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.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

jet/pjs