

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

**CHRISTIAN M FRANTZ**  
Claimant

**APPEAL NO. 18A-UI-08149-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SANDER'S CREEK LANDSCAPING  
& CONCRETE LLC**  
Employer

**OC: 07/08/18**  
**Claimant: Appellant (5)**

Iowa Code Section 96.5(1) – Voluntary Quit

**STATEMENT OF THE CASE:**

Christian Frantz filed a timely appeal from the July 23, 2018, reference 01, decision that disqualified him for benefits and that relieved the employer's account of liability for benefits, based on the Benefits Bureau deputy's conclusion that Mr. Frantz was discharged on June 25, 2018 for excessive unexcused absences. After due notice was issued, a hearing was held on August 21, 2018. Mr. Frantz participated. Andrew Jordan represented the employer.

**ISSUE:**

Whether Mr. Frantz separated from the employment for a reason that disqualifies him for unemployment insurance benefits or that relieves the employer's account of liability for benefits.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Christian Frantz was employed by Sander's Creek Landscaping & Concrete, L.L.C. as a full-time installer/laborer during two distinct periods. The most recent employment began in September 2017. Business owner Andrew Jordan and foreman Matt Moessner were Mr. Frantz's supervisors. Mr. Frantz's work hours were 7:00 a.m. to 3:30 p.m., Monday through Friday. Mr. Frantz last performed work for the employer on June 1, 2018.

Mr. Frantz was next scheduled to work on Monday, June 4. At 5:00 a.m. on June 4, Mr. Frantz notified Mr. Jordan via text message that his foot was infected and that he would be going to the doctor. Later that morning, Mr. Frantz notified Mr. Jordan via text message that he had seen a doctor, that his foot was neither broken nor infected, and that the doctor had released him to return to work. Early that afternoon, Mr. Frantz called Mr. Jordan and said that even though the doctor had released him to return to work, he was not going to report to work. Thereafter, Mr. Frantz was absent without notice for 10 consecutive shifts from June 5 through June 18. On June 19, Mr. Frantz did not come to work, but sent a text message to Mr. Jordan that afternoon stating only, "Hey buddy, how are you doing today?" Mr. Jordan did not respond to the

message. However, in light of this contact, Mr. Jordan sent notice to Mr. Frantz on June 20 and June 21 that the crew was not working due to rain. On Friday, June 22, Mr. Frantz was again absent without notice to the employer. On Monday, June 25, Mr. Frantz sent a text message to Mr. Jordan at 6:00 a.m. indicating that he had chipped his tooth and was going to the dentist. Mr. Frantz followed with another text message indicating that his tooth has been pulled and that he would see Mr. Jordan the next day. Mr. Jordan had reached the end of his patience and responded with a text messages indicating that he was unwilling to continue the pattern. Mr. Jordan referenced the length of Mr. Frantz's absence from the workplace, the burden the extended absence placed on other employees, and the disruptive impact Mr. Frantz had on the work environment.

### **REASONING AND CONCLUSIONS OF LAW:**

A discharge is a termination of employment initiated by the employer for such reasons as incompetence, violation of rules, dishonesty, laziness, absenteeism, insubordination, or failure to pass a probationary period. Iowa Administrative Code rule 871-24.1(113)(c). A quit is a separation initiated by the employee. Iowa Administrative Code rule 871-24.1(113)(b). 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 Iowa Administrative Code rule 871-24.25.

Iowa Code section 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.

The weight of the evidence in the record establishes a voluntary quit. Mr. Frantz's pattern of conduct from June 4 onward was sufficient to indicate a quit. On June 4, Mr. Frantz notified the employer he would not be returning to the employment at that time, even though a doctor had released him to return to work. The weight of the evidence indicates that Mr. Frantz was then absent without notice to the employer for at least 10 consecutive shifts. Mr. Frantz continued thereafter to be absent from the workplace and never returned to perform additional work for the employer. The text message correspondence on June 25, 2018 came well after the pattern of conduct indicated a separation initiated by Mr. Frantz. The evidence establishes a voluntary quit for personal reasons, mainly a decision not to engage in gainful employment. The quit was without good cause attributable to the employer. Mr. Frantz is disqualified for benefits until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount. Mr. Frantz must meet all other eligibility requirements. The employer's account shall not be charged for benefits.

**DECISION:**

The July 23, 2018, reference 01, decision is modified as follows. The claimant voluntarily quit the employment without good cause attributable to the employer. The quit was effective June 4, 2018. 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. The claimant must meet all other eligibility requirements. The employer's account shall not be charged for benefits.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

jet/rvs