

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**GARY L MCCLURE**  
Claimant

**APPEAL NO. 11A-UI-07653-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**JACOBS FIELD SERVICES**  
Employer

**OC: 05/01/11**  
**Claimant: Appellant (1)**

Iowa Code Section 96.5(1) – Voluntary Quit

**STATEMENT OF THE CASE:**

Gary McClure filed a timely appeal from the June 2, 2011, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on June 6, 2011. Mr. McClure participated. The employer did not respond to the hearing notice instructions to provide a telephone number for the hearing and did not participate. Exhibits A was received into evidence.

**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: Gary McClure was employed by Jacobs Field Services as a full-time apprentice from 2009 until May 3, 2011, when he voluntarily quit due to dissatisfaction with the work environment. Mr. McClure's quit was prompted by his displeasure with the fact that two members of the staff were dating. One of those involved in the dating relationship was estimator Tammy Brown. Mr. McClure did not appreciate it when Ms. Brown attempted to direct his work. At the time Mr. McClure voluntarily quit, he had applied for but not yet accepted employment with another contractor who performed work at the same ADM facility. Mr. McClure did not start with that new employer until a month after he left employment with Jacobs Field Services.

**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).

When a worker voluntarily quits employment due to dissatisfaction with the work environment, a personality conflict with the supervisor, or an inability to work with other employees, a voluntary quit is presumed to be without good cause attributable to the employer. See 871 IAC 24.25(21), (22), and (6).

The evidence in the record fails to establish working conditions that rose to the level of intolerable and/or detrimental working conditions that would have prompted a reasonable person to quit the employment. The evidence indicates instead that Mr. McClure voluntarily quit the employment due to dissatisfaction with the work environment because he didn't like the fact that some of the staff were dating. Mr. McClure voluntarily quit the employment without good cause attributable to the employer. Accordingly, Mr. McClure 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. McClure.

#### **DECISION:**

The Agency representative's June 2, 2011, 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