

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JEFFREY S IBBOTSON
Claimant

APPEAL NO. 14A-UI-00753-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

US POSTAL SERVICE
Employer

OC: 12/01/13
Claimant: Appellant (2)

Section 96.5-1 – Voluntary Quit
Section 96.5-2-a – Discharge for Misconduct

STATEMENT OF THE CASE:

The claimant filed an appeal from a representative's decision dated January 10, 2014, reference 01, which held that the claimant was ineligible for unemployment insurance benefits. After due notice, a hearing was held on February 12, 2014. The claimant participated personally. The employer failed to respond to the hearing notice and did not participate. The record consists of the testimony of Jeffrey Ibbotson and Claimant's Exhibits 1-4.

ISSUE:

Whether the claimant was separated from his employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witness and having considered all of the evidence in the record, makes the following findings of fact:

The claimant was hired a full-time mail carrier for the employer on October 15, 2013. On November 15, 2013, the claimant sustained a work-related injury when he fell while delivering mail. He injured his left knee and his right shoulder. The claimant reported the injury to his employer and was instructed to use worker's compensation. The claimant missed work on November 17, 2013; November 18, 2013; and November 19, 2013. These absences were reported by the claimant to the employer. The employer terminated the claimant on November 20, 2013. The claimant did not find out until December 1, 2013, that he had been terminated. He was released to return to work on November 29, 2013.

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.

A quit is a separation initiated by the employee. 871 IAC 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 871 IAC 24.25.

The claimant is eligible for unemployment insurance benefits. The claimant did not quit his job. He sustained a work-related injury and was off work due to that injury. The employer clearly knew that the claimant had been injured and instructed him to use worker's compensation. The claimant reported his absences to the employer. The employer did not participate in the hearing and therefore the reasons for the claimant's termination are unknown. There is no evidence of misconduct as personal illness properly reported is an excused absence. Since the claimant was not separated from his employment for any disqualifying reason, benefits are allowed if the claimant is otherwise eligible.

DECISION:

The decision of the representative dated January 10, 2014, reference 01, is reversed. Unemployment insurance benefits are allowed, if the claimant is otherwise eligible.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/pjs