

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JON N RICHARDSON**  
Claimant

**APPEAL NO. 10A-UI-14346-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**HIGH PLAINS INVESTMENTS INC  
HIGH PLAINS CONSTRUCTION INC**  
Employer

**OC: 09/19/10  
Claimant: Appellant (1)**

Section 96.5(1) – Voluntary Quit

**STATEMENT OF THE CASE:**

Jon Richardson filed a timely appeal from the October 13, 2010, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on November 29, 2010. Mr. Richardson failed to respond to the hearing notice instructions to provide a telephone number for the hearing and did not participate. Mike Pagano, President, represented the employer.

**ISSUE:**

Whether Mr. Richardson separated from the employment for a reason that disqualifies him for unemployment insurance benefits.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Jon Richardson was employed by High Plains Construction as a full-time labor until September 15, 2010, when he voluntarily quit the employment rather than continue to perform work under the same terms and conditions as had existed up to that point. Out-of-town travel was an established condition of the employment. Mr. Richardson worked on a crew that was scheduled to travel out of town on September 15, 2010. Mr. Richardson arrived at work without an appropriate travel bag and announced that he was no longer going to travel out-of-town because he had a class he needed to attend. The employer continued to have the same work available to Mr. Richardson that the employer had had for him up to that point. Mr. Richardson elected to separate from the employment and pursue his academic studies after the employer refused to amend the conditions of employment to accommodate his school schedule.

**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. 871 IAC 24.1(113)(c). 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.

Mr. Richardson failed to appear for the hearing and thereby failed to present any evidence to support an allegation that he was discharged from the employment or that he voluntarily quit for good cause attributable to the employer. The weight of the evidence in the record establishes that Mr. Richardson voluntarily quit to focus on his academic studies after the employer refused to change the established conditions of employment to accommodate his new school schedule.

When a person voluntarily quits to go to school, the quit is presumed to be without good cause attributable to the employer. See 871 IAC 24.25(26).

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.

The evidence in the record indicates that Mr. Richardson voluntarily quit the employment to go to school, despite the fact that the employer continued to have employment available for him under the same terms and conditions as had existed up to that point. The claimant voluntarily quit the employment without good cause attributable to the employer. Mr. Richardson 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. Richardson.

## **DECISION:**

The Agency representative's October 13, 2010, 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.

---

James E. Timberland  
Administrative Law Judge

---

Decision Dated and Mailed

jet/pjs