

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**RICHARD E WOODS
323 – 6TH AVE SW
OELWEIN IA 50662**

**J N PETERSON & SONS INC
PETERSON CONSTRUCTION
1929 – 2ND ST
WEBSTER CITY IA 50595**

**Appeal Number: 06A-UI-00124-JTT
OC: 11/20/05 R: 04
Claimant: Appellant (1)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Claimant Richard Woods filed a timely appeal from the December 28, 2005, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on January 19, 2006. Mr. Woods participated. President Gerald Peterson represented the employer and presented additional testimony through Project Manager Shane Albrecht.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Richard Woods was employed by Peterson Construction as a full-time laborer from April 11, 2005 until November 22, 2005, when he quit in response to be reprimanded. On November 19, Mr. Woods had been absent without notifying the employer of the need to be absent. Mr. Woods had previously received a verbal reprimand for attendance. On November 22,

Project Manager Shane Albrecht summoned Mr. Woods to a meeting for the purpose of issuing a written reprimand to Mr. Woods for the missed shift. Project Manager Josh Angus was also present. In the period leading up to the meeting, the employer had begun to assign Mr. Woods supervisor responsibilities. After the project managers had finished discussing the reprimand, the project managers commenced speaking with Mr. Woods about allowing workers too long for break or lunch or calling breaks at inappropriate times. At this point, Mr. Woods terminated the meeting when he stood up, announced he had had enough and was taking his tools and going home, and left the worksite. On Monday, November 28, Mr. Woods returned to the worksite for the sole purpose of collecting his remaining tools and returning a key.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence in the record establishes that Mr. Woods' voluntary quit was for good cause attributable to the employer. It does not.

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.

871 IAC 24.25(28) provides:

Voluntary quit without good cause. 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 from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(28) The claimant left after being reprimanded.

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 establishes that Mr. Woods voluntarily quit the employer on November 22, 2005, after being reprimanded. Pursuant to Workforce Development Rule 24.25(28), the administrative law judge concludes that Mr. Woods' voluntary quit was without good cause attributable to the employer. Mr. Woods 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. Woods.

The administrative law judge considered Mr. Woods' testimony regarding the use at the worksite of a nickname and an offensive song at Mr. Woods' expense. Mr. Woods' full testimony, the testimony of Mr. Albrecht, and the weight of the evidence, indicates that Mr. Woods' quit was prompted by the reprimand, not the nickname and song.

DECISION:

The Agency representative's decision dated December 28, 2005, reference 01, 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.

jt/kjw