

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DAVE RUTLEDGE**

Claimant

**APPEAL NO: 06A-UI-10345-BT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**PETERSON CONTRACTORS INC**

Employer

**OC: 12/11/05 R: 03  
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

Dave Rutledge (claimant) appealed an unemployment insurance decision dated October 23, 2006, reference 03, which held that he was not eligible for unemployment insurance benefits because he voluntarily quit his employment with Peterson Contractors, Inc. (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 7, 2006. The claimant participated in the hearing. The employer participated through Janice Ehrig, Payroll Supervisor. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time driver/operator from June 25, 2004 through September 21, 2006. He had problems with his foreman and his foreman told him to talk to the owner if he had problems. It rained on Friday, September 22, 2006 so no one worked. The claimant pulled his camper out of the project location and took it back to his home town without talking to anyone. He did not report to work on Monday and did not call the employer. His foreman called him and asked him where he was at and when the claimant said he was at home, the foreman asked him why he was not at work. The claimant responded that he was going to talk to the owner like the foreman told him to do. The employer considered the claimant to have voluntarily quit his employment by his refusal to continue working.

**REASONING AND CONCLUSIONS OF LAW:**

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits. He is not qualified to receive unemployment insurance benefits if he voluntarily quit without good cause attributable to the employer. Iowa Code section 96.5-1.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980) and Peck v. Employment Appeal Bd., 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant demonstrated his intent to quit by pulling his camper out of the project location and he carried out that intent when he refused to return to work. He contends that he loved his job and did not quit but only did what he was told to do by his foreman. The facts demonstrate otherwise though since his foreman only told him to talk to the employer, he was never told not to go to work but chose not to return to work.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify him. Iowa Code section 96.6-2. He has not satisfied that burden and benefits are denied.

**DECISION:**

The unemployment insurance decision dated October 23, 2006, reference 03, is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Susan D. Ackerman  
Administrative Law Judge

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Decision Dated and Mailed

sda/pjs