

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**BRANDON G JONES**

Claimant

**APPEAL NO. 13A-UI-06053-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TEXAS ROADHOUSE HOLDINGS LLC**

Employer

**OC: 04/21/13**

**Claimant: Appellant (4)**

Section 96.5(1)(a) – Voluntary Quit to Accept Other Employment

**STATEMENT OF THE CASE:**

Brandon Jones filed a timely appeal from the May 10, 2013, reference 02, decision that denied benefits. After due notice was issued, a hearing was held on June 26, 2013. Claimant participated. Tom Kuiper of Equifax Workforce Solutions represented the employer and presented testimony through Matt Johnson.

**ISSUE:**

Whether Mr. Jones 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: Brandon Jones was employed by Texas Roadhouse as a part-time server assistant from February 2012 until February 17, 2013, when he voluntarily quit to work for an auto dealership. When Mr. Jones started the employment with the dealership, he agreed to stay on with Texas Roadhouse for one day a week. That lasted until February 17, 2013. Mr. Jones did not show for two shifts the employer had for him after that date. Mr. Jones continued with the auto dealership until April 2013.

**REASONING AND CONCLUSIONS OF LAW:**

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.

Iowa Code section 96.5(1)(a) provides as follows:

Causes for disqualification.

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. But the individual shall not be disqualified if the department finds that:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, *and the individual performed services in the new employment*. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

[Emphasis added.] The administrative law judge must follow the plain language of the statute.

The evidence indicates that Mr. Jones voluntarily quit the employment with Texas Roadhouse after he had accepted other employment. Mr. Jones worked for the new employer beyond the February 17, 2013 separation from Texas Roadhouse. The voluntary quit from Texas Roadhouse was without good cause attributable to that employer. Texas Roadhouse shall not be assessed for benefits paid to Mr. Jones. The separation from Texas Roadhouse did not disqualify Mr. Jones for unemployment insurance benefits and he is eligible for benefits provided he meets all other eligibility requirements.

**DECISION:**

The agency representative's May 10, 2013, reference 02, decision is modified as follows. The claimant voluntarily quit to accept other employment. The voluntary quit from Texas Roadhouse was without good cause attributable to that employer. Texas Roadhouse shall not be assessed for benefits paid to the claimant. The separation from Texas Roadhouse did not disqualify the claimant for unemployment insurance benefits and the claimant is eligible for benefits provided he meets all other eligibility requirements.

---

James E. Timberland  
Administrative Law Judge

---

Decision Dated and Mailed

jet/css