

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**PATRICK A KENTOPP**  
Claimant

**APPEAL NO. 09A-UI-02524-JT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CUSTOM STEEL BUILDERS INC**  
Employer

**OC: 01/18/09**  
**Claimant: Appellant (1)**

Iowa Code Section 96.5(1) – Voluntary Quit

**STATEMENT OF THE CASE:**

Patrick Kentopp filed a timely appeal from the February 13, 2009, reference 01, decision that denied benefits. After due notice was issued, a hearing was commenced on March 24, 2009 and concluded on March 25, 2009. Mr. Kentopp participated. Attorney Hanna Rogers represented the employer and presented testimony through Joe Koons, Brandt Murry, Robert Coulson, Vicki Coulson, and Sandy Mitchell. Exhibits One and Two were received into evidence. At request of the parties, the administrative law judge took official notice of the Agency's administrative file documents submitted for or generated in connection with the February 11, 2009 fact-finding interview. Of these documents, Department Exhibits D-1 and D-2 were marked for identification purposes.

**ISSUE:**

Whether Mr. Kentopp voluntarily quit or was discharged from the employment. The administrative law judge concludes that Mr. Kentopp voluntarily quit.

Whether Mr. Kentopp's voluntary quit was for good cause attributable to the employer.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Patrick Kentopp was employed by Custom Steel Builders as full-time laborer from September 4, 2007 until January 16, 2009. The employer manufactures custom parties for other businesses. Mr. Kentopp's supervisors were Robert Coulson, Owner and President, and Bob Brecht, Senior Machinist. Joe Koons and Brandt Murry also worked in the employer's shop as full-time laborers.

On Mr. Kentopp's final day of employment, Mr. Coulson assigned Mr. Kentopp and Mr. Koons to hand-load some metal parts into the back of a customer's pickup. The parts that needed to be hand-loaded were on a pallet and were secured to the pallet by a metal band or strap. Mr. Coulson had initially attempted to use a forklift to place the pallet in the back of the customer's pickup, but had been unsuccessful because one or more of the parts were hanging over the edge of the pallet. Mr. Kentopp had been present for Mr. Coulson's unsuccessful

attempt to load the pallet with the forklift. After Mr. Coulson concluded he could not load the parts with the forklift, he lowered the pallet to the ground and cut the metal band that secured the parts to the pallet. Mr. Coulson then directed Mr. Kentopp and Mr. Koons to load the parts by hand. After Mr. Coulson walked away, Mr. Koons and Mr. Kentopp decided it would be easier to hand-load the parts if they lifted the pallet so that it was roughly level with the bed of the customer's pickup. Mr. Koons operated the forklift to raise the pallet. The parts were unsteady on the pallet. One sizeable part rolled off the pallet and onto the opened tailgate of the truck, denting the tailgate. The customer's representative, Sandy Mitchell, notified Mr. Coulson of the damage to the tailgate.

When Mr. Coulson reviewed the damage to the tailgate, he instructed Ms. Mitchell to get an estimate for repair of the damage. Mr. Coulson notified Mr. Koons and Mr. Kentopp that they would be reprimanded for their failure to follow Mr. Coulson's instructions to hand-load the parts. Mr. Koons remained silent as Mr. Coulson expressed his displeasure and discussed the pending reprimand. However, Mr. Kentopp challenged the employer's decision to issue a reprimand. Mr. Kentopp asserted that he was not at fault because he had not operated the forklift. Mr. Coulson notified Mr. Kentopp that he would be reprimanded along with Mr. Koons because he had gone along with lifting the pallet after Mr. Coulson had directed him to load the parts by hand. Mr. Kentopp further challenged Mr. Coulson's decision to reprimand him. Mr. Kentopp told Mr. Coulson that he believed the company as a whole was responsible for the damage to the customer's pickup and that Mr. Coulson should have to admit fault in connection with the reprimand. Mr. Coulson told Mr. Koons and Mr. Kentopp that if either employee did not agree with the reprimand, he could go home for the day. Mr. Koons remained silent and avoided the confrontation between Mr. Kentopp and Mr. Coulson. Mr. Kentopp went to the time clock and clocked out. Mr. Kentopp then announced that he was quitting. Mr. Coulson escorted Mr. Kentopp to the break room and closed the door. Mr. Coulson and Mr. Kentopp continued their discussion in the break room. Both then exited the break room and Mr. Kentopp left. Mr. Kentopp did not return to the employment.

Mr. Kentopp had been upset when he arrived for work on January 16, 2009. Mr. Kentopp had slammed a door in the workplace upon arriving because he was upset that he was having problems with his vehicle. Prior to January 16, 2009, Mr. Kentopp had announced to other employees his impending release from court-order probation and his plan to leave the employment once the probation was done.

#### **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.

The weight of the evidence indicates that Mr. Kentopp voluntarily quit the employment in response to being verbally reprimanded by Mr. Coulson. The weight of the evidence indicates that Mr. Coulson invited Mr. Koons and Mr. Kentopp to leave for the day if either disagreed with the reprimand, but fails to indicate that Mr. Coulson directed either employee to leave. The weight of the evidence indicates that Mr. Kentopp initiated the separation from the employment

because he was upset about the verbal reprimand and about what he perceived to be verbal abuse from Mr. Coulson. The weight of the evidence fails to indicate intolerable and/or detrimental working conditions that would have prompted a reasonable person in Mr. Kentopp's circumstances to quit the employment. See 871 IAC 24.26(4).

A person who voluntarily quits employment in response to being reprimanded is presumed to have quit without good cause attributable to the employer. See 871 IAC 24.25(28).

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.

Based on the weight of the evidence in the record and application of the appropriate law, the administrative law judge concludes that Mr. Kentopp voluntarily quit the employment without good cause attributable to the employer. Accordingly, Mr. Kentopp 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. Kentopp.

**DECISION:**

The Agency representative's February 13, 2009, 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.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

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