

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JUSTIN R SAWYER**  
Claimant

**APPEAL NO. 11A-UI-02782-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**EVOLUTION POWER TOOLS LLC**  
Employer

**OC: 11/28/10**  
**Claimant: Appellant (4)**

Section 96.5(1) – Voluntary Quit

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the February 24, 2011, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on March 30, 2011. Claimant did not respond to the hearing notice instructions to provide a telephone number for the hearing and did not participate. Mike Fangmann, president, represented the employer.

**ISSUES:**

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

Whether Mr. Sawyer is eligible for unemployment insurance benefits due to the employer ending the employment prior to the effective quit date Mr. Sawyer provided to the employer.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Justin Sawyer was employed by Evolution Power Tools, L.L.C., as a full-time account manager. Mr. Sawyer last performed work for the employer on November 24, 2010. Mr. Sawyer had notified the employer that he would be leaving the employment, effective December 24, 2010, to attend college at Iowa State University. Mr. Sawyer was assigned to a particular business account and was scheduled to have his first meeting with representatives of the customer business in Florida. Mike Fangmann, president of Evolutions Power Tools, L.L.C., did not believe it was in the employer or the customer's interest to have Mr. Sawyer meet with the customer and ended Mr. Sawyer's employment effective November 24, 2010.

**REASONING AND CONCLUSIONS OF LAW:**

Mr. Sawyer failed to participate in the hearing and thereby failed to present any evidence to establish a discharge, layoff, or a quit for good cause attributable to the employer. The evidence in the record establishes that Mr. Sawyer voluntarily quit the employment to attend college, with the quit to be effective December 24, 2010.

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.

When a worker voluntarily quits employment to attend school, the quit is without good cause attributable to the employer. See 871 IAC 24.25(26).

Because the evidence establishes that Mr. Sawyer voluntarily quit the employment effective December 24, 2010 to attend school, the quit was without good cause attributable to the employer.

Iowa Administrative Code rule 871 IAC 24.26(12) provides as follows:

When an employee gives notice of intent to resign at a future date, it is a quit issue on that future date. Should the employer terminate the employee immediately, such employee shall be eligible for benefits for the period between the actual separation and the future quit date given by the claimant.

Because the employer elected to end the employment after the notice of quit but prior to the effective quit date, Mr. Sawyer would be eligible for unemployment insurance benefits during the notice period, provided he is otherwise eligible. Accordingly, Mr. Sawyer is eligible for unemployment insurance benefits for the benefit weeks ending November 27, December 4, 11, 18, and 25, 2010, provided he is otherwise eligible. The employer's account may be charged for benefits disbursed for that period. Effective the benefit week that started December 26, 2010 and that ended January 1, 2011, Mr. Sawyer 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. Sawyer for the period on or after December 26, 2010.

#### **DECISION:**

The Agency representative's February 24, 2011, reference 01, decision is modified as follows.

The claimant voluntarily quit the employment without good cause attributable to the employer. The quit was effective December 24, 2010. Because the employer elected to end the employment after the notice of quit but prior to the effective quit date, the claimant is eligible for unemployment insurance benefits *during the notice period*, provided he is otherwise eligible. The claimant is eligible for unemployment insurance benefits for the benefit weeks ending November 27, December 4, 11, 18 and 25, 2010, provided he is otherwise eligible. The employer's account may be charged for benefits disbursed for that period. Effective the benefit week that ended January 1, 2011, 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 for benefits paid to the claimant for the period on or after December 26, 2010.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

jet/kjw