

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JEREMY M PAULSEN
Claimant

APPEAL NO. 09A-UI-10958-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

HOME DEPOT USA INC
Employer

OC: 06/14/09
Claimant: Appellant (2)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated July 21, 2009, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on August 26, 2009. Claimant participated. Employer failed to respond to the hearing notice and did not participate. The record consists of the testimony of Jeremy Paulsen.

ISSUE:

Whether the claimant voluntarily left for good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witness and having considered all of the evidence in the record, makes the following findings of fact:

The claimant started working for Home Depot on October 10, 2004. He was promoted a number of times during his tenure with the company and in October 2008 was made store manager of human resources for a store in Hawaii.

On April 10, 2009, the claimant gave a two-week notice to his employer that his last day of work would be April 24, 2009. The district human resources manager refused to accept the resignation notice. She knew the claimant had a number of personal issues at the time, including the death of his father back in Iowa, and so she put the claimant on a personal leave of absence instead. The claimant accepted the personal leave of absence. No firm date was established for the length of the personal absence but the employer's policy allowed for up to 90 days.

The claimant received a voice mail from the district human resources manager on May 18, 2009, indicating that he had been terminated. He was quite surprised to have received this message since he thought he was still on a personal leave of absence. Thereafter various representatives of the employer gave him different answers to the question of whether he was still employed and on a personal leave of absence or whether he was terminated. For example,

he received a letter on July 7, 2009, asking him to either return to work or update his leave status. When he called the employer's service center, he was sometimes told he still in the system and other times that he had been terminated. On August 14, 2009, he was told he was still an employee but later informed he had been terminated in April 2009.

REASONING AND CONCLUSIONS OF LAW:

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 claimant is understandably confused on his status with the employer. He did submit a two-week notice on April 10, 2009, which his employer did not accept. Rather the district manager for human resources put the claimant on personal leave and the claimant agreed to this. He understood he had up to 90 days to either return to work at the store in Hawaii or take another job with the company. Although the claimant may have originally intended to sever the employment relationship, he did change his mind and intended to come back to work either in Hawaii or elsewhere.

The best evidence is that the claimant was terminated by the employer, that is, the employer initiated the separation of employment. The district manager left the claimant a voice mail message that he had been terminated. The date of that message was May 18, 2009. As there is no showing of misconduct, the administrative law judge concludes that the claimant was terminated effective May 18, 2009, and did not voluntarily quit. Accordingly, the claimant is entitled to benefits, assuming he is otherwise eligible starting May 18, 2009.

DECISION:

The decision of the representative dated July 21, 2009, reference 01, is reversed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible starting May 18, 2009.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/pjs