

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**PROPHET LIVINGOOD**  
Claimant

**APPEAL NO. 12A-UI-10123-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**AXCESS STAFFING SERVICES LLC**  
Employer

**OC: 11/27/11  
Claimant: Appellant (1)**

Section 96.5(1) – Voluntary Quit

**STATEMENT OF THE CASE:**

Prophet Livingood filed a timely appeal from the August 16, 2012, reference 01, decision that denied benefits in connection with a July 1, 2012 voluntary quit. After due notice was issued, a hearing was held on September 13, 2012. Mr. Livingood participated. Lesley Buhler of TALX represented the employer and presented testimony through Dennis Panosh, Erin McAteer and Irma Herrera. Exhibits A and B were received into evidence.

**ISSUE:**

Whether Mr. Livingood's July 1, 2012 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: Axxcess Staffing Services provides workers to Rock Tenn Merchandising in Iowa City and maintains an office at Rock Tenn for that purpose. In August 2011, Prophet Livingood commenced performing work at Rock Tenn through Axxcess Staffing. Prior to that, Mr. Livingood had performed work at the Rock Tenn facility through a different staffing agency.

Mr. Livingood ceased appearing for work at the Rock Tenn facility after he worked on June 27, 2012. Mr. Livingood did not provide the employer with a reason for his decision to cease appearing for work. Mr. Livingood returned to the employment in early September. At no point, before or after the quit did Mr. Livingood notify the employer he was being harassed or make reference to an article about him as the basis for any harassment. The employer continued to have work available for Mr. Livingood at the time he ceased appearing for work at the end of June 2012.

**REASONING AND CONCLUSIONS OF LAW:**

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.

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See 871 IAC 24.26(4). The test is whether a reasonable person would have quit under the circumstances. See Aalbers v. Iowa Department of Job Service, 431 N.W.2d 330 (Iowa 1988) and O'Brien v. Employment Appeal Bd., 494 N.W.2d 660 (1993). Aside from quits based on medical reasons, prior notification of the employer before a resignation for intolerable or detrimental working conditions is not required. See Hy-Vee v. EAB, 710 N.W.2d (Iowa 2005).

The weight of the evidence establishes that Mr. Livingood voluntarily quit the employment for personal reasons and not for good cause attributable to the employer when he decided to cease appearing for work after June 27, 2012. The weight of the evidence fails to support Mr. Livingood's assertion that he was being harassed or that he had brought the alleged harassment to the attention of the employer. Effective June 27, 2012, Mr. Livingood was disqualified for unemployment insurance benefits until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount. Mr. Livingood would have to meet all other eligibility requirements. The employer's account will not be charged in connection with the June 27, 2012 separation.

**DECISION:**

The Agency representative's August 16, 2012, reference 01, decision is affirmed. The claimant voluntarily quit the employment on June 27, 2012 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 in connection with the June 27, 2012 separation.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

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