

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DAVID J DORSEY**  
Claimant

**APPEAL NO. 09A-UI-10670-VST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**PAPETTI'S OF IOWA**  
Employer

**OC: 06/07/09**  
**Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated July 23, 2009, reference 02, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on August 11, 2009. Claimant participated. Employer participated by Auby Ninemire, Supervisor of Safety and Training. The record consists of the testimony of David Dorsey and the testimony of Auby Ninemire.

**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 witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The employer in this case is an agricultural processing company. The claimant was hired on March 21, 2008, as a sanitation laborer. The claimant voluntarily quit his job on July 20, 2008. His truck broke down in Missouri and he did not want to be terminated. He decided to quit rather than “point out” on attendance. At the time he quit his job, work was available for him with the employer. The employer had no plans to terminate the claimant’s employment at the time that he quit.

**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.

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 evidence in this case established that the claimant intended to sever the employment relationship and did so by voluntarily quitting his job. He quit his job because his truck broke down and he felt he might be terminated for accumulating too many points on the attendance policy. The employer, however, testified that at the time the claimant quit there were no plans to terminate him and that work was available for the claimant. The claimant left voluntarily without good cause attributable to the employer and therefore benefits are denied.

**DECISION:**

The decision of the representative dated July 23, 2009, reference 02, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

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Vicki L. Seeck  
Administrative Law Judge

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Decision Dated and Mailed

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