

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CRAIG A CAROLAN**  
Claimant

**APPEAL NO. 10A-UI-11530-VST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CEDAR RAPIDS COMM SCHOOL DIST**  
Employer

**OC: 06/13/10**  
**Claimant: Appellant (2)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

The claimant filed an appeal from a representative's decision dated August 11, 2010, reference 02, which held the claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on October 1, 2010. The claimant participated. The employer participated by Stephanie Krause, human resources specialist. The record consists of the testimony of Craig Carolan and the testimony of Stephanie Krause. Official notice is taken of agency records.

**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 is the Cedar Rapids Community School District. The claimant worked as a substitute Para-Professional II, which is a teacher's aide in the classroom. The claimant was informed on June 5, 2009, by a principal that his services were no longer needed. The claimant understood that he had been laid off. He filed for unemployment insurance benefits and received unemployment insurance benefits on a claim with an original claim date of June 14, 2009.

The principal that informed the claimant that his services were no longer needed did not have the authority to lay off the claimant or terminate his employment. The claimant was still on the employer's list and over the academic term 2009-2010 hundreds of calls were placed to him by the automated system that contacts employees for substitute work. The line was either busy or the phone was not answered. The claimant was placed on inactive status, as he had not accepted any assignments for the academic term 2009-2010.

**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 issue in this case is which party initiated the separation of employment. The claimant testified that he worked as a substitute para-professional. He obtained his assignments directly from school principals as opposed to the telephone system used by the school system to contact substitutes. On June 5, 2009, one of these principals informed the claimant that his services were no longer needed. The claimant assumed that this meant he had been laid off. As a result, he filed for and received unemployment insurance benefits. The employer contends that this principal had no authority to lay the claimant off and that the claimant was still being called as a substitute during the academic year 2009-2010 and either the phone was busy or the claimant did not answer. As a result, the claimant was placed on inactive status, which is why the employer takes the position that the claimant voluntarily quit as of the effective date of this claim, which is June 13, 2010.

The greater weight of the evidence is that it was the employer who initiated the separation of employment, not the claimant. The claimant had received his assignments directly from principals and therefore he could logically assume that a principal could tell him that his services were no longer needed. There was no evidence that the claimant received any letter or other communication from the school district that would inform him that he was still an active employee and would be called for assignments. The claimant's status as of June 13, 2010, had not changed from what it had been on June 14, 2009, when he filed his first claim. The claimant did not submit a letter of resignation. The administrative law judge concludes there is insufficient evidence in this record that the claimant voluntarily quit his position. Accordingly, benefits are allowed if the claimant is otherwise eligible.

**DECISION:**

The representative's decision dated August 11, 2010, reference 02, is reversed. Unemployment insurance benefits are allowed, provided the claimant is otherwise eligible.

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Vicki L. Seeck  
Administrative Law Judge

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Decision Dated and Mailed

vls/kjw