IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS

DONALD L LOVETT
Claimant

APPEAL NO. 10A-UI-03461-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

IOWA PACIFIC PROCESSORS INC
Employer

OC: 02/07/10
Claimant: Appellant (1)

Iowa Code Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Donald Lovett filed a timely appeal from the March 1, 2010, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on April 20, 2010. Mr. Lovett participated. Jim Greenfield, accountant, represented the employer and presented additional testimony through Jon Lemke, Production Manager, and Mike Everett, owner. Exhibits One, Two and Three were received into evidence.

ISSUE:

Whether the claimant's 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: Donald Lovett was employed by Iowa Pacific Processors as a full-time truck driver/shipping and receiving worker from February 2008 until February 10, 2010, when he voluntarily quit. Mr. Lovett was absent from work without notifying the employer on February 8 and 9. On February 10, 2010, Mr. Lovett told Jon Lemke, Production Manager, that he was quitting because he thought the employer had shorted him $1,700.00 in annual pay. Mr. Lemke brought owner Mike Everett into the discussion. Mr. Everett and the employer's accountants were able to demonstrate that the employer had not in fact shorted Mr. Lovett on his pay. Instead, Mr. Lovett had a $1,700.00 pre-tax deduction for an AFLAC insurance policy. After Mr. Everett demonstrated to Mr. Lovett that he had been paid appropriately, Mr. Lovett told Mr. Everett that the $500.00 bonus the employer had paid him in January was an insult and that he was quitting anyway.

In connection with the quit, Mr. Lovett at no time said anything to the employed about concerns he had about how coworkers were treated by the employer. Mr. Lovett thought the employer employed rough language with production workers.

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).

On the other hand, if an employee voluntarily quits because he simply dislikes the work environment, the quit is presumed to be without good cause attributable to the employer. See 871 IAC 24.25(21).

Where a person voluntarily quits due to dissatisfaction with the wages, but knew the wages at the start, the quit is presumed to be without good cause attributable to the employer. See 871 IAC 24.25(13).

Mr. Lovett prematurely terminated his participation in the hearing before his testimony was completed. The administrative law judge made two unsuccessful attempts to contact Mr. Lovett and bring him back into the hearing. On one attempt, the administrative law judge was able to make contact with a voicemail box and left an appropriate message with the Appeals Section's toll free number. The administrative law judge received evidence from the employer. The employer waived objection regarding the lost opportunity to cross examine Mr. Lovett. The administrative law judge did not hear back from Mr. Lovett and closed the record at the end of the employer's evidence. As of the entry of this decision on April 22, 2010 at 9:22 a.m., Mr. Lovett has not made further contact with the Appeals Section regarding the hearing set for April 21, 2010 at 1:00 p.m.

The weight of the evidence in the record establishes that Mr. Lovett voluntarily quit the employment due to dissatisfaction with his wages. Mr. Lovett erroneously believed that the employer had shorted him on his wages and believed that the bonus the employer had recently provided was too small. The employer had not changed the wages in any way. The weight of the evidence fails to establish detrimental and/or intolerable working conditions that would have prompted a reasonable person in Mr. Lovett's position to leave the employment.

Based on the evidence in the record and application of the appropriate law, the administrative law judge concludes that Mr. Lovett voluntarily quit the employment without good cause attributable to the employer. Accordingly, Mr. Lovett 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. Lovett.

DECISION:

The Agency representative's March 1, 2010, reference 01, decision is affirmed. The claimant voluntarily quit the employment 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.

_____
James E. Timberland
Administrative Law Judge

_____
Decision Dated and Mailed

jet/pjs