

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**BENJAMIN A WALLACE**  
Claimant

**APPEAL NO. 10A-UI-17648-VS**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**P J IOWA LC**  
Employer

**OC: 10/31/10**  
**Claimant: Appellant (1R)**

Section 96.5-1 – Voluntary Quit  
871 IAC 24.27 – Voluntary Quit of Part-Time Employment

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated December 17, 2010, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on March 8, 2011, in Davenport, Iowa. Claimant participated. The claimant was represented by Lynnette Van Wyngarden, Intern University of Iowa College of Law. Catherine Alexander served as supervising attorney. Employer participated by Dan Kindig, Area Manager. The record consists of the testimony of Benjamin Wallace; the testimony of Dan Kindig; Claimant's Exhibits A-C; and Employer's Exhibits 1-7. 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 owns and operates 24 Papa John's pizza restaurants. The claimant worked as a part-time driver for a restaurant located in Davenport, Iowa. The claimant began working in early November 2009.

An individual who works as a driver drives his or her own vehicle and is required to maintain insurance on that vehicle. The claimant was involved in an accident on November 22, 2009. He immediately reported the accident to his employer. The employer has a policy that if a driver is involved in an accident, the driver is placed on suspension until the driver can provide proof that his or her personal insurance has resolved the issue. On November 23, 2009, the claimant had a telephone conversation with Dan Kindig, Area Manager, who informed him that he was not able to drive until the claimant provided proof that his personal insurance had taken care of the accident.

The claimant never provided the proof to the employer. The employer considered the claimant to have quit. The claimant denied that he ever quit.

The claimant established a claim with an original claim date of October 31, 2010. The claimant has full-time wages in his base period from Dahl Motors. That employment ended in mid November 2009.

### **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 first issue that must be determined is which party initiated the separation of employment. The claimant was involved in an accident, which he did report to his employer. The employer had a policy that a driver could not go back to driving until the driver provided proof that his personal insurance policy had resolved any issues concerning the accident. The claimant was informed that he must provide that proof. He did not do so. The employer could reasonably believe that the claimant had voluntarily quit. The administrative law judge concludes that it was the claimant who initiated the separation of employment, not the employer. The employer was willing to put the claimant back to work provided the claimant give the employer proof that his insurance had handled the accident. The claimant was the only party who could provide this proof. The claimant, by failing to provide this proof, in effect abandoned his job. Since the claimant voluntarily quit without good cause attributable to the employer, benefits are denied.

871 IAC 24.27 provides:

Voluntary quit of part-time employment and requalification. An individual who voluntarily quits without good cause part-time employment and has not requalified for benefits following the voluntary quit of part-time employment, yet is otherwise monetarily eligible for benefits based on wages paid by the regular or other base period employers, shall not be disqualified for voluntarily quitting the part-time employment. The individual and the part-time employer which was voluntarily quit shall be notified on the Form 65-5323 or 60-0186, Unemployment Insurance Decision, that benefit payments shall not be made which are based on the wages paid by the part-time employer and benefit charges

shall not be assessed against the part-time employer's account; however, once the individual has met the requalification requirements following the voluntary quit without good cause of the part-time employer, the wages paid in the part-time employment shall be available for benefit payment purposes. For benefit charging purposes and as determined by the applicable requalification requirements, the wages paid by the part-time employer shall be transferred to the balancing account.

The claimant's job with this employer was part-time employment. Agency records show that he had wages paid by a full-time employer during his base period. This matter is remanded to the Claims Section to determine if the claimant is eligible for benefits based on this other employment in his base period.

**DECISION:**

The decision of the representative dated December 17, 2010, reference 01, is affirmed on the basis that the claimant did voluntarily quit his job without good cause attributable to the employer. This matter is remanded to the Claims Section to determine if the claimant is eligible for benefits based on other employment during his base period.

---

Vicki L. Seeck  
Administrative Law Judge

---

Decision Dated and Mailed

vls/css