

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**NICHOLAS E THOMPSON**  
Claimant

**APPEAL NO. 10A-UI-11402-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**APAC CUSTOMER SERVICES  
OF IOWA LLC**  
Employer

**OC: 07/04/10**  
**Claimant: Respondent (2)**

Section 96.5(1) – Voluntary Quit

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the August 2, 2010, reference 01, decision that allowed benefits. After due notice was issued, a hearing was held on September 27, 2010. Claimant Nicholas Thompson did not respond to the hearing notice instructions to provide a telephone number for the hearing and did not participate. Gregory Anello of TALX/ADP represented the employer and presented testimony through Human Resources Generalist Rochelle Jordan. The administrative law judge took official notice of the Agency's administrative record concerning benefits disbursed to the claimant (DBRO), which record indicates that no benefits were disbursed to the claimant in connection with the claim that was effective July 4, 2010.

**ISSUE:**

Whether Mr. Thompson separated from the employment for a reason that disqualifies him for unemployment insurance benefits.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Nicholas Thompson was employed by APAC Customer Services of Iowa as a full-time customer service representative in training from June 7, 2010 until July 8, 2010, when he voluntarily quit. On July 8, 2010, Mr. Thompson told the employer that he had accepted a position with U.S. Cellular that would pay more. The quit was effective immediately. The employer continued to have work available for Mr. Thompson. The employer does not know whether Mr. Thompson in fact went to work for U.S. Cellular.

Mr. Thompson established a claim for unemployment insurance benefits that was effective July 4, 2010. Mr. Thompson did not receive any benefits in connection with the claim. At the time Mr. Thompson applied for benefits, he asserted to Workforce Development that he had been discharged by APAC on July 8, 2010.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 96.5-1-a 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. But the individual shall not be disqualified if the department finds that:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

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 the record establishes that Mr. Thompson voluntarily quit the employment for personal reasons and not for good cause attributable to the employer. The employer's account will not be charged for benefits paid to Mr. Thompson. The weight of the evidence fails to establish that Mr. Thompson actually performed work for the new employer he referenced in connection with his voluntary quit from APAC. The fact that Mr. Thompson established a claim for unemployment insurance benefits that was effective the same week he separated from APAC calls into question whether there was any pending job offer or acceptance of an offer. The filing of the claim strongly suggests Mr. Thompson did not go to work for U.S. Cellular. Accordingly, Mr. Thompson 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. Thompson.

Because no benefits have been disbursed in connection with the claim that was established July 4, 2010, there is no overpayment to address.

**DECISION:**

The Agency representative's August 2, 2010, reference 01, decision is reversed. The claimant voluntarily quit the employment for personal reasons, 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/kjw