

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

EDWARD C EPAULT
Claimant

VERIZON BUSINESS NETWORK
Employer

APPEAL NO. 19A-UI-08524-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 09/15/19
Claimant: Appellant (1)

Iowa Code Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Edward Epault filed a timely appeal from the October 21, 2019, reference 02, decision that disqualified him for benefits and that relieved the employer's account of liability for benefits, based on the deputy's conclusion that Mr. Epault voluntarily quit on June 28, 2019 without good cause attributable to the employer. After due notice was issued, a hearing was held on November 21, 2019. Mr. Epault participated. The employer provided written notice that the employer waived participation in the appeal hearing. The employer did not register a telephone number for the hearing and did not participate. Exhibits A, B and C were received into evidence.

ISSUE:

Whether the claimant voluntary quit the employment without good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Edward Epault was employed by Verizon Business Network as a full-time Senior Associate Engineer until June 28, 2019, when he voluntarily separated from the employment pursuant to a Separation Agreement he agreed to on June 18, 2019. Mr. Epault began his employment with Verizon Business Network in 1999. Mr. Epault served in the Senior Associate Engineer position during the final five years of the employment. Mr. Epault's duties involved coordinating video conferences. In March 2019, the employer sent a mass email to 30,000 employees to learn which employees would be interested in voluntarily separating from the employer in exchange for compensation. Mr. Epault notified the employer that he was interested in participating in the proposed agreement. In May 2019, the employer notified Mr. Epault that he was eligible to participate in the proposed agreement. In May 2019, the employer provided Mr. Epault with a Separation Agreement and Release. The document began as follows:

The Separation Agreement and Release of Claims ("Release") is an agreement between Verizon Business Ntwk Srvs Inc on behalf of itself ... and me, and anyone who may have a legal right to make claims on my behalf. I acknowledge that I have volunteered

to end my employment with Verizon in connection with the 2018 Voluntary Separation Program, a component of the Verizon Severance Program for Management Employees ... and that my employment is ending, and I agree to release all claims against the Company and other Releasees (as defined below), all as described in more detail below. In exchange for my agreements and promises, I will receive a severance payment and other benefits (set forth in Attachment A, which is part of this Release) under the applicable Verizon severance plans which I understand I would not receive unless I sign this Release. I acknowledge and agree to the following:

Below the introductory paragraph, the Separation and Release document set out 20 numbered paragraphs. Paragraphs 1 and 2 provided as follows:

1. I am leaving the employment of the Company. I understand that my final day of active employment with the company will be the "Last Day of Active Employment" set forth on Attachment A.

2. I will receive payment(s) and benefits by voluntarily signing this Release that I otherwise would not receive. I understand that I am being separated from the payroll and that I have been offered severance pay under the Severance Plan, including the 2018 Voluntary Separation Program, and other benefits described in the Severance Plan Summary Plan Description as modified and supplemented from time to time, in exchange for signing this Release. These payment(s) and benefits are summarized in Attachment A, and are subject to the terms of the Severance Plan and other applicable Verizon benefit plans. These payment(s) and benefits are subject to taxes and applicable withholdings.

Paragraph 19 encouraged Mr. Epault to consult with an attorney before signing the agreement. Paragraph 20 advised Mr. Epault of his right to cancel the agreement with seven days of signing the release.

Mr. Epault signed the Separation Agreement and Release on June 18, 2019 and voluntarily separated from the employment on June 28, 2019 pursuant to the terms of the agreement. Mr. Epault elected not to submit Attachment A for the administrative law judge's consideration.

Mr. Epault's employment was not in jeopardy at the time he elected to enter into the agreement to voluntarily separate from the employment. Mr. Epault's employment was not in jeopardy at any point up to the time he voluntarily separated from the employment on June 28, 2019. The employer had not announced a layoff that would impact Mr. Epault. Mr. Epault elected to participate in the voluntary separation agreement out of concern for what might happen to his employment at some unspecified future point. During his employment, Mr. Epault had observed the number of employees in his work area decrease from 300 to 51 and had observed the need for his assistance with video-conferencing calls reduce from 100 calls per day to 15 calls per day.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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).

Iowa Admin. Code r. 871-24.25(29) provides:

Voluntary quit without good cause. 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 from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(29) The claimant left in anticipation of a layoff in the near future; however, work was still available at the time claimant left the employment.

The evidence in the record establishes that Mr. Epault voluntarily quit on June 28, 2019 without good cause attributable to the employer. Mr. Epault knowingly and voluntarily elected to enter into an agreement with the employer whereby he agreed to separate from the employment effective June 28, 2019 in exchange for compensation. Mr. Epault could have foregone the proposed voluntary separation agreement and continued in the employment for the foreseeable future. Mr. Epault left the employment in anticipation that a layoff might come at some unspecified future point, but in the absence of announced layoff. Mr. Epault is disqualified for benefits until he has worked in and been paid wages for insured work equal to 10 times his weekly benefit amount. Mr. Epault must meet all other eligibility requirements. The employer's account shall not be charged for benefits.

DECISION:

The October 21, 2019, reference 02, decision is affirmed. The claimant voluntarily quit the employment on June 28, 2019 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 10 times his weekly benefit amount. The claimant must meet all other eligibility requirements. The employer's account shall not be charged for benefits.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/scn