

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SCOTT I MACDONALD

Claimant

APPEAL NO. 09A-UI-06155-E2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

BRICKINRIDGE PARTNERS

Employer

OC: 03/15/09

Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

Section 96.5-2-a – Misconduct

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated April 6, 2009, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on May 15, 2009. Claimant participated. Employer participated by Mark Van Zuiden. Exhibit A was admitted into evidence.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on Friday March 13, 2009. Mr. MacDonald was the Maintenance Manager of Brickinridge Apartments. He had worked in the complex for about three years. The owners of the apartment complex decided to use a different management company to run the apartment complex. They announced this to staff on the morning of March 13. The current manager Rhonda Hayes was told she was no longer managing the complex. All the staff was told that there would be jobs for them. Not unexpectedly, this created confusion among staff. Mr. MacDonald decided to clear out his tools that morning so that he would not be denied access to them. The staff decided to meet over lunch to decide what they wanted to do. The new management company, PMI, headed by Mark Van Zuiden told all employees that they would have jobs. The staff was told that they should think it over and let him know on Monday. The claimant states he was discharged by Rhonda Hayes over the lunch hour as he told her he didn't want to come back in that afternoon and she fired him for insubordination.

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 claimant was told by the new management company he had a job. He did not know his new job duties or pay. He was informed he could let the new managers know Monday if he wanted to continue working. The claimant quit based upon his assumption he would face a substantial reduction in pay and his duties would be significantly different. However he did not know what the changes were that at the time he quit and therefore he did not have good cause.

As for the claimant's contention that he was discharged for insubordination it does not appear to be accurate; however, if it is true he would not be eligible for benefits due to job related misconduct.

Iowa Code section 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:
 - a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

871 IAC 24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

- a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial

disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not to be deemed misconduct within the meaning of the statute.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. Huntoon v. Iowa Department of Job Service, 275 N.W.2d 445, 448 (Iowa 1979).

Failure to follow a reasonable request of an employer can be misconduct. Based upon the testimony of the claimant, he failed to follow the request of Ms Hayes to return to work.

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because of a change in the management company of his employer.

DECISION:

The decision of the representative dated April 6, 2009, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

James Elliott
Administrative Law Judge

Decision Dated and Mailed

jfe/pjs