

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JOHN D PRICE**

Claimant

**APPEAL NO. 10A-UI-00063-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**K & L LANDSCAPE & CONSTRUCTION INC**

Employer

**OC: 10/25/09**

**Claimant: Appellant (1)**

Iowa Code Section 96.5(1) – Voluntary Quit

**STATEMENT OF THE CASE:**

John Price filed a timely appeal from the December 8, 2009, reference 02, decision that denied benefits based on an Agency conclusion that he had voluntarily quit without good cause attributable to the employer. After due notice was issued, a hearing was held on February 11, 2010. Mr. Price did not respond to the hearing notice instructions to provide a telephone number for the hearing and did not participate. Christine Brandow, Controller, represented the employer.

**ISSUE:**

Whether the claimant separated from the employment for a reason that disqualifies him for benefits.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: John Price was employed by K & L Landscape & Construction, Inc., on a full-time basis from June 2009 until October 23, 2009, when he voluntarily quit. Mr. Price got upset that his paycheck did not reflect all of the hours he worked. The check did not reflect all the hours he had worked because Mr. Price had failed to turn in necessary payroll paperwork. Rather than work to resolve the matter with the employer at that time, Mr. Price notified the employer he was quitting. The employer continued to have work available for Mr. Price and on January 11, 2010, Mr. Price returned to work for the employer in the same position he held previously.

**REASONING AND CONCLUSIONS OF LAW:**

A discharge is a termination of employment initiated by the employer for such reasons as incompetence, violation of rules, dishonesty, laziness, absenteeism, insubordination, or failure to pass a probationary period. 871 IAC 24.1(113)(c). 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.

When it is in a party's power to produce more direct and satisfactory evidence than is actually produced, it may fairly be inferred that the more direct evidence will expose deficiencies in that party's case. See Crosser v. Iowa Dept. of Public Safety, 240 N.W.2d 682 (Iowa 1976).

Mr. Price failed to appear for the hearing he had requested and failed to present any evidence to support the notion that he was discharged from the employment. The evidence in the record indicates that Mr. Price voluntarily quit the employment due to a concern about his pay, that the pay issue resulted from Mr. Price's failure to submit appropriate paperwork to get paid for all of his work, and that Mr. Price quit rather than give the employer a reasonable opportunity to resolve his concern. The evidence does not indicate that the employer denied Mr. Price pay for all or part of his labor.

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.

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).

The evidence in the record fails to establish intolerable and detrimental working conditions that would have prompted a reasonable person to leave the employment. It is worth noting that Mr. Price elected to return to the employment at a later date.

On October 23, 2009, Mr. Price voluntarily quit the employment without good cause attributable to the employer. Accordingly, Mr. Price 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.

#### **DECISION:**

The Agency representatives December 8, 2009, reference 02, 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.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

jet/pjs