

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**AARON L BOUZEK**  
Claimant

**APPEAL NO. 14A-UI-04833-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CDI CORPORATION**  
Employer

**OC: 04/13/14**  
**Claimant: Appellant (1)**

Section 96.5(1) – Voluntary Quit

**STATEMENT OF THE CASE:**

Aaron Bouzek filed a timely appeal from the May 2, 2014, reference 01, decision that disqualified him for benefits. After due notice was issued, a hearing was held on May 29, 2014. Mr. Bouzek participated and presented additional testimony through Melissa Bouzek. The employer did not respond to the hearing notice instructions to provide a telephone number for the hearing and did not participate.

**ISSUE:**

Whether Mr. Bouzek separated from the employment for a reason that disqualifies him for unemployment insurance benefits or that relieves the employer of liability for benefits.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Aaron Bouzek was employed by CDI Corporation as a full-time Unix System Administrator from February 2014 and last performed work for the employer on April 4, 2014. Mr. Bouzek's usual work hours were 9:00 a.m. to 5:00 p.m., Monday through Friday. Mr. Bouzek also worked additional on-call hours. On April 4, Mr. Bouzek was working from home when he was arrested and charged with a serious criminal offense. Mr. Bouzek did not have an opportunity to notify the employer of why he needed to cease working at that time. Mr. Bouzek was incarcerated in a county jail until April 15, 2014. Shortly after Mr. Bouzek was arrested, his wife, Melissa Bouzek, notified one of his supervisors of the arrest and that law enforcement had seized Mr. Bouzek's notebook computer. On April 7, a supervisor call Mr. Bouzek's number to inquire about why Mr. Bouzek had not submitted his weekly payroll information. Mrs. Bouzek took the call and told the supervisor that Mr. Bouzek was incarcerated and that she thought Mr. Bouzek would be released later that week.

Upon his release from custody, Mr. Bouzek contacted the employer. One supervisor did not take his call. Another supervisor spoke to Mr. Bouzek and advised that he would not be allowed to return to the employment because he would not be able to pass a background check.

## 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.

Iowa Admin. Code r. 871-24.25(16) 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:

(16) The claimant is deemed to have left if such claimant becomes incarcerated.

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 indicates that Mr. Bouzek's separation from the employment resulted from a 10 or 11-day period of incarceration. Under Iowa Administrative Code rule 871 - 24.25(16), Mr. Bouzek voluntarily quit the employment without good cause attributable to the employer. Accordingly, Mr. Bouzek 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.

**DECISION:**

The claims deputy's May 2, 2014, reference 01, 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. The employer's account shall not be charged.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

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