

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

COREY D. DEROSIERS
Claimant

WESTAT INC.
Employer

**DIA APPEAL NO. 21IWDUI2039
IWD APPEAL NO. 20A-UI-05068**

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 12/20/20
Claimant: Appellant (2)**

STATEMENT OF THE CASE:

The claimant filed an appeal from the February 8, 2021 (reference 01) unemployment insurance decision that denied benefits based upon Claimant voluntarily quitting employment without good cause. The parties were properly notified of the hearing. A telephone hearing was held on April 12, 2021. The claimant, Corey Derosiers, participated on his own behalf and presented testimony. The employer, Westat, Inc., did not send a representative to the hearing. Official Notice was taken of the administrative file, which included the notice of telephone hearing, the decision at issue herein, the fact-finding sheet, the appeal request, and a letter from the employer to the Claimant dated September 17, 2020.

ISSUES:

Whether the separation was a layoff, discharge for misconduct, or voluntary quit without good cause.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant began working for Westat, Inc., in August of 2020 as a data collector. Claimant testified at hearing that he did not quit his employment. He received a certified letter from Westat, Inc., dated September 17, 2020, discharging his employment. The letter specifically states that Claimant's employment is terminated, effective immediately, due to the results of his background screening. (Derosiers testimony; Letter dated 9/17/20)

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

All of the evidence in the record indicates that Claimant did not voluntarily quit his employment. The certified letter from Westat, Inc. terminating his employment is part of the record. The Employer failed to participate in the hearing and submit evidence.

Iowa Code §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(20) 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.

A voluntary quitting requires an intention to terminate the employment and requires an overt act of carrying out that intention. *Wills v. Emp. Appeal Bd.*, 447 N.W. 2d 137, 138 (Iowa 1989); *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980). Where a claimant walked off the job without permission before the end of his shift saying he wanted a meeting with management the next day, the Iowa Court of Appeals ruled this was not a voluntary quit because the claimant's expressed desire to meet with management was evidence that he wished to maintain the employment relationship. *Peck v. Emp. Appeal Bd.*, 492 N.W.2d 438, 440 (Iowa Ct. App. 1992).

In this case there is no evidence that Claimant quit his employment. He testified at hearing that he was terminated via certified letter and a copy of the letter is in evidence. The September 17, 2020 letter from Westat, Inc. terminates Claimant's employment effective immediately. The unemployment insurance decision incorrectly determined that Claimant voluntarily quit his employment.

DECISION:

The December 20, 2020 (reference 01) unemployment insurance decision is reversed. Claimant will be allowed benefits provided he is otherwise eligible.



Emily Kimes-Schwiesow
Administrative Law Judge

April 26, 2021
Decision Dated and Mailed

CC: Corey Derosiers (by First Class Mail)
Westat, Inc. (by First Class Mail)
Nicole Merrill, IWD (By Email)
Joni Benson, IWD (By Email)