

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CODY R MATHIS**  
Claimant

**APPEAL NO. 11A-UI-11152-VST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SHADE TREE SERVICE CO**  
Employer

**OC:11/28/10**  
**Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

The claimant filed an appeal from a representative's decision dated August 15, 2011, reference 02, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on September 15, 2011. The claimant participated. The employer participated by Jeff Baker, director of operations. The record consists of the testimony of Cody Mathis and the testimony of Jeff Baker.

**ISSUE:**

Whether the claimant voluntarily left for good cause attributable to the employer.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The claimant worked as a tree trimmer for the employer. The claimant was hired on August 3, 2009. He quit his job on July 11, 2011. The reason he quit his job was that he lost his transportation to and from the job site. The claimant did not have a driver's license and was dependent on a fellow employee for a ride. That other employee quit, and so the claimant did also. The employer never agreed to provide the claimant with transportation to and from the job site. Work was available for the claimant at the time he quit his job.

**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.

871 IAC 24.25(1) 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:

(1) The claimant's lack of transportation to the work site unless the employer had agreed to furnish transportation.

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 evidence is uncontroverted that it was the claimant who initiated the separation of employment. He quit his job after he lost his ride to and from the job site. The employer never agreed to provide the claimant with transportation. Iowa law is clear that an employee is considered to have voluntarily quit his job due to lack of transportation to the job site unless the employer agrees to provide the transportation. Since the employer did not agree to provide the transportation, the claimant voluntarily quit his job without good cause attributable to the employer. Benefits are denied.

**DECISION:**

The representative's decision dated August 15, 2011, reference 02, 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.

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Vicki L. Seeck  
Administrative Law Judge

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Decision Dated and Mailed

vls/kjw