

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LANCE J WHITEHALL**  
Claimant

**APPEAL NO. 12A-UI-13520-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**EATON CORPORATION**  
Employer

**OC: 10/14/12**  
**Claimant: Appellant (1)**

Section 96.5(1) – Voluntary Quit

**STATEMENT OF THE CASE:**

Lance Whitehall filed a timely appeal from the November 5, 2012, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on December 11, 2012. Mr. Whitehall participated. Katie Vandenberg represented the employer. Exhibits One through Six were received into evidence.

**ISSUE:**

Whether Mr. Whitehall separated from the employment for a reason that disqualifies him for unemployment insurance benefits. The administrative law judge concludes that Mr. Whitehill voluntarily quit without good cause attributable to the employer.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Lance Whitehall was employed by Eaton Corporation as a full-time assembler from March 2011 until September 22, 2012, when he voluntarily quit in lieu of submitting to a drug test. On September 22, 2012, a coworker noticed that Mr. Whitehill had a bottle of alcohol in his coat pocket. Mr. Whitehill's coat was at that point lying on a table in the vicinity of his work area. The coworker alerted the supervisor, Mike Baldwin. Mr. Baldwin spoke with Mr. Whitehill and confirmed that Mr. Whitehill had an open pint of Black Velvet whiskey in his coat pocket. Despite Mr. Whitehill breathing in Mr. Baldwin's face to argue he had not been drinking, Mr. Baldwin told Mr. Whitehill that pursuant to the employer's Alcohol and Drug Free workplace policy, Mr. Whitehill would have to submit to a drug test. As they walked to the office, Mr. Whitehill stopped Mr. Baldwin, told him he was "a pot head," and told him he was going to file the test. Mr. Whitehill asked what would happen if he took the test. Mr. Baldwin told Mr. Whitehill that if he submitted to the test and it was positive, Mr. Whitehill would then have to speak with human resources and human resources would have to decide what to do. Mr. Baldwin did not tell Mr. Whitehill that he would be discharged from the employment if the test was positive. The employer's policy left to the employer's discretion what discipline to issue in response to a violation of the employer's Alcohol and Drug Free workplace policy. Mr. Whitehill told Mr. Baldwin that that would not work for him, by which he meant submitting to the test and meeting with human resources would not work for him. Mr. Whitehall then began to

exit the facility. Mr. Whitehill had decided to quit in lieu of submitting to a drug test. Mr. Baldwin told Mr. Whitehill that if he was quitting, Mr. Baldwin would need his badge. Mr. Whitehill gave Mr. Baldwin his badge. Mr. Whitehill asked whether Mr. Baldwin intended to notify police that he had an open container of alcohol in his pocket. Mr. Baldwin said that he was not. Mr. Whitehill then exited the workplace. Mr. Whitehill did not attempt to return to work or make further contact with the employer.

The employer has a written Alcohol and Drug Free workplace policy. The policy is posted on the employer's intranet. The policy is reviewed with employees during orientation and at regular intervals during the employment. Mr. Whitehill was aware of the policy. The policy prohibited possession of alcohol on company premises unless specifically authorized in connection with a special social event. The policy also provided for reasonable suspicion drug and alcohol testing.

### **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.

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 an employee voluntarily quits in response to a reprimand, the quit is presumed to be without good cause attributable to the employer. See Iowa Admin. Code r. 871 IAC 24.25(28). In this case, the voluntary quit was in response to the mere prospect of a reprimand.

The evidence in the record indicates that Mr. Whitehill voluntarily quit in lieu of submitting to drug and alcohol testing under the employer's policy. The voluntary quit occurred in the context of Mr. Whitehill having violated the employer's Alcohol and Drug Free workplace policy by possession of an open container of whiskey at the workplace and in his work area. The quit was not in lieu of imminent discharge. Instead the quit was in lieu of submitting to testing that may or may not have led to discharge. Mr. Whitehill voluntarily quit the employment without good cause attributable to the employer. Accordingly, Mr. Whitehill 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 Agency representative's November 5, 2012, 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

jet/pjs