

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RUSSELL T LARUE
Claimant

APPEAL NO. 10A-UI-05276-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

GOOD SAMARITAN SOCIETY INC
Employer

OC: 02/28/10
Claimant: Appellant (4-R)

Iowa Code Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Russell LaRue filed a timely appeal from the March 29, 2010, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on May 26, 2010. Mr. LaRue failed to follow the hearing notice instructions to provide a telephone number for the hearing and did not participate. K.D. Kalber represented the employer. Exhibits One through Seven were received into evidence.

ISSUE:

Whether Mr. LaRue separated from the employment for a reason that disqualifies him for unemployment insurance benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Russell LaRue was employed by Good Samaritan Society, Inc., as a part-time Certified Nursing Assistant and last performed work for the employer on January 14, 2010. Mr. LaRue was next scheduled to work on January 17 and 18. Mr. LaRue neither appeared for the shifts nor notified the employer he needed to be absent. Mr. LaRue made no further contact with the employer. The employer subsequently concluded Mr. LaRue had voluntarily quit the employment.

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.

The weight of the evidence in the record establishes that Mr. LaRue voluntarily quit effective January 14, 2010, by failing to report for additional shifts or make contact with the employer thereafter. Mr. LaRue voluntarily quit the employment without good cause attributable to the employer. Accordingly, Mr. LaRue is disqualified for benefits based on wage credits earned from the employment with Good Samaritan Society, Inc., 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 paid to Mr. LaRue.

An individual who voluntarily quits part-time employment without good cause attributable to the employer and who has not re-qualified for benefits by earning ten times his weekly benefit amount in wages for insured employment, but who nonetheless has sufficient other wage credits to be eligible for benefits may receive reduced benefits based on the other base period wages. See 871 IAC 24.27.

This matter will be remanded to the Claims Division for a determination of whether Mr. LaRue is eligible for reduced benefits based on wage credits from base period employer other than Good Samaritan Society, Inc.

DECISION:

The Agency representative's March 29, 2010, reference 01, decision is modified to take into consideration the part-time nature of the employment. The claimant voluntarily quit the employment without good cause attributable to the employer. The claimant is disqualified for benefits based on base period wage credits based on the employment with Good Samaritan Society, Inc., 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. This matter is remanded to the Claims Division for a determination of whether the claimant is eligible for reduced benefits based on wage credits from base period employer other than Good Samaritan Society, Inc.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs