

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DONALD F WEGNER
Claimant

APPEAL NO. 13A-UI-08647-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DEN HARTOG INDUSTRIES INC
Employer

OC: 06/23/13
Claimant: Appellant (1)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Donald Wegner filed a timely appeal from the July 18, 2013, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on August 30, 2013. Mr. Wegner participated. Christine Koerselman represented the employer and presented additional testimony through Jason Bork.

ISSUE:

Whether Mr. Wegner's voluntary quit was for good cause attributable to the employer. It was not.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Donald Wegner was employed by Den Hartog Industries, Inc., as a full-time machine operator from 2011 until June 11, 2013, when he voluntarily quit to avoid submitting the employer's inquiry into his erratic behavior and to a potential drug test. Mr. Wegner's immediate supervisor was Travis Schreier. Mr. Wegner's work hours were 6:00 p.m. to 6:00 a.m., four days per week. During the final shift, Mr. Schreier noted that Mr. Wegner was acting peculiar. Mr. Wegner was ordinarily a very quiet person, but during the final shift was talkative and appeared restless. During the final shift, Jason Bork, Night Shift Manager, had planned to speak with Mr. Wegner about a shift he had missed the day before. When Mr. Schreier observed Mr. Wegner acting abnormally, he summoned Mr. Bork. At that time, Mr. Wegner told Mr. Bork and Mr. Schreier that his personal life was falling apart and that his girlfriend had a mob coming after him because he had uncovered a child pornography ring that the girlfriend or someone else in her group was part of. Mr. Bork wanted to get permission from the plant manager to ask Mr. Wegner to submit to drug testing. At midnight, Mr. Bork contacted the plant manager who was at home in bed. While Mr. Bork was in the process of contacting the plant manager, Mr. Wegner told Mr. Schreier, "Fuck it, I quit." Mr. Wegner then left in the middle of his shift and did not return.

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 evidence in the record indicates that Mr. Wegner voluntarily quit to avoid submitting to the employer's inquiry about his erratic behavior and in anticipation of receiving a reprimand. The quit was without good cause attributable to the employer. The evidence does not support Mr. Wegner's assertion that he quit in response to a safety concern or in response to being required to work too many hours. Mr. Wegner 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 representatives July 18, 2013, 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.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs