

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RICHARD A MORRIN
Claimant

APPEAL NO. 13A-UI-11345-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

SDH SERVICES WEST LLC
Employer

OC: 12/16/12
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed an appeal from a representative's decision dated September 27, 2013, reference 04, which held that the claimant was ineligible for unemployment insurance benefits. After due notice, a hearing was held on November 4, 2013. The claimant participated personally. The employer participated by Zach Smith, executive chef. The record consists of the testimony of Richard Morrin and the testimony of Zach Smith.

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 employer is a contracted food service company for a retirement community located in Cedar Rapids, Iowa, known as Methwick Community. The claimant began working for the employer during the first week of June 2013. He was a full-time prep cook. The claimant's last day of work was September 11, 2013. On September 15, 2013, he telephoned Zach Smith, his supervisor, and informed Mr. Smith that he was quitting. He found other employment and it was a good opportunity that he could not pass up.

The claimant now claims that the reason he quit was because his hours were reduced and he was given the job title of dishwasher. The claimant's hours were not reduced. There was an error in schedule that was corrected as soon as it was discovered. The claimant's job was not changed to dishwasher and he never worked as a dishwasher. The claimant never told the employer that he was quitting for these reasons.

The claimant was off work and unable to work from September 8, 2013, through September 14, 2013.

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(21) 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:

(21) The claimant left because of dissatisfaction with the work environment.

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 claimant is not eligible for unemployment insurance benefits. The greater weight of the credible evidence in this case is that the claimant quit because he was dissatisfied with the work environment. The claimant had some grievances against the employer that he never shared with his supervisor, Zach Smith. For example, the claimant felt he was treated differently than other employees because he could not wear his ball cap and had to use a cutting glove. He felt this was harassment. These petty complaints are not harassment. The other reasons given by the claimant, i.e., his reduction in hours and change in job title never even occurred. The claimant never told Mr. Smith that he was leaving for these two reasons. All he told Mr. Smith was that he had another job. The administrative law judge concludes that the claimant left the job because he simply did not like it. That is not good cause attributable to the employer. Benefits are denied.

DECISION:

The decision of the representative dated September 27, 2013, reference 04, 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.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/pjs