

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RICK BIEBER
Claimant

APPEAL NO: 13A-UI-05429-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CUSTOM-PAK INC – LP2
Employer

OC: 03/24/13
Claimant: Appellant (1)

Iowa Code § 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Rick Bieber (claimant) appealed an unemployment insurance decision dated April 10, 2013, reference 01, which held that he was not eligible for unemployment insurance benefits because he voluntarily quit his employment with Custom-Pak, Inc. – LP2 (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on June 12, 2013. The claimant participated in the hearing. The employer participated through Andrea Lawrence and Matt Norem.

ISSUE:

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time laborer/operator from May 12, 2009 through March 21, 2013 when he told the employer he could not do his job and left. He started his shift at 11:00 p.m. and was scheduled to work until 7:20 a.m. The claimant went to his coach shortly before 2:00 a.m. and said he could no longer do the job. His coach told him he had two options, he could stay and finish the job or leave and talk to the supervisor in the morning. The claimant told him he had never quit anything before but this time he had to go. He just received a final written warning for attendance on March 6, 2013 which advised him he would be terminated if he had any other infractions prior to June 5, 2013.

REASONING AND CONCLUSIONS OF LAW:

The issue to be determined is whether the reasons for the claimant's separation from employment qualify him to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if he voluntarily quit without good cause attributable to the employer. Iowa Code § 96.5-1.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980) and *Peck v. Employment Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant demonstrated his intent to quit and acted to carry it out on March 21, 2013 when he refused to continue working and walked off the job.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. He has not satisfied that burden. Benefits are denied.

DECISION:

The unemployment insurance decision dated April 10, 2013, reference 01, is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/css