

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GREGG C SOTHMANN
Claimant

APPEAL NO. 09A-UI-04880-E2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

ALTER TRADING CORPORATION
Employer

OC: 02/22/09
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated March 18, 2009, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on April 23, 2009. Employer participated by Steve Eicher and was represented by Tom Halpin. Claimant failed to respond to the hearing notice and did not participate. The claimant called at 3:33 p.m. and requested that the hearing be reopened. He stated he did not read the notice sent to him and that is why he did not provide the Appeals Section his telephone number. He said he did not call shortly after the start of the hearing because he got busy. The claimant has not shown good cause for reopening the record.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on February 24, 2009. The claimant was asked to switch his job duties. The rate of pay, hours and benefits would be the same. The claimant quit at that time. He was given four opportunities to reconsider. He talked to Mr. Eicher late in the afternoon on the 24th and asked if his employer would reconsider their acceptance of his quitting. Mr. Eicher determined that he was not going to reconsider for a fifth time and would not allow the claimant to withdraw his resignation.

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 quit. There was no evidence presented that would show that there was a substantial change in the claimant's contract of hire. The evidence shows the claimant quit because he was dissatisfied with the work environment. The claimant has failed to prove his quit was based upon good cause attributable to the employer.

DECISION:

The decision of the representative dated March 18, 2009, reference 01, 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.

James Elliott
Administrative Law Judge

Decision Dated and Mailed

jfe/pjs