

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KURT KARNES

Claimant

APPEAL NO: 08A-UI-09165-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

A-ONE WATER SPECIALISTS INC

Employer

**OC: 09/07/08 R: 01
Claimant: Appellant (1)**

Iowa Code § 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Kurt Karnes (claimant) appealed an unemployment insurance decision dated October 1, 2008, reference 01, which held that he was not eligible for unemployment insurance benefits because he voluntarily quit his employment with A-One Water Specialists, Inc (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 October 23, 2008. The claimant participated in the hearing. The employer did not comply with the hearing notice instructions and did not call in to provide a telephone number at which a representative could be contacted, and therefore, did not participate. Based on the evidence, the arguments of the party, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

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 installer service technician from approximately 2003 through September 5, 2008 when he voluntarily quit. He and his manager had asked to take off September 5, 2008 because it was opening day of the hunting season. The employer told the manager that he might have to work on Saturday but he would see what he could do. The employer tried calling the manager about midday on Friday, September 5, 2008 but the manager did not answer his phone. At approximately 6:30 p.m., the employer called the claimant's telephone number and asked if he could try to find the manager. The claimant did not answer his phone either. The employer sent an employee to the manager's house at approximately 9:30 p.m. but apparently the manager did not answer the door. The manager told the claimant about the incident and the manager said he was quitting. The claimant decided he was going to quit also because he, "did not want to be sweared at or yelled at." He testified the employer screamed at him many times in the past but nothing inappropriate was said to the claimant on this day and only a simple message was left for him on his voice

mail. The claimant called the employer at approximately 12:00 a.m. on September 6, 2008 and left him a message that he was quitting his employment.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits. He 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 by calling the employer's phone and leaving a voice message that he quit his employment. He quit his employment at the time he did because his manager had just quit his employment and the claimant believed he was going to be asked to work on September 6, 2008. He testified that the employer had yelled at him in the past but that was apparently not sufficient to prompt him to quit and he only quit after his manager quit.

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 and benefits are denied.

DECISION:

The unemployment insurance decision dated October 1, 2008, 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/pjs