

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

**MIKE J CURTIS**  
Claimant

**APPEAL NO. 19A-UI-05567-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**PILOT TRAVEL CENTERS LLC**  
Employer

**OC: 06/16/19**  
**Claimant: Respondent (1)**

Iowa Code Section 96.5(1) – Voluntary Quit  
Iowa Administrative Code Rule 871-24.25(38) – Termination in Response to Quit Notice

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the July 8, 2019, reference 01, decision that allowed benefits to the claimant during a two-week notice period provided he was otherwise eligible, but that disqualified the claimant effective July 2, 2019. The deputy decision was based on the deputy's conclusion that the claimant voluntarily quit without good cause attributable to the employment effective July 2, 2019 and that the employer had terminated the employment in response to the quit notice. After due notice was issued, a hearing was held on August 6, 2019. Claimant Mike Curtis did not comply with the hearing notice instructions to register a telephone number for the hearing and did not participate. Tanya Calef represented the employer. The administrative law judge took official notice of the Agency's record of benefits disbursed to the claimant. The administrative law judge took official notice of the fact-finding materials for the limited purpose of determining whether the employer participated in the fact-finding interview and, if not, whether the claimant engaged in fraud or intentional misrepresentation in connection with the fact-finding interview.

**ISSUES:**

Whether the claimant's voluntary quit was for good cause attributable to the employer.

Whether the employer terminated the employment in response to the quit notice and prior to the effective quit date.

Whether the employer's account may be charged for benefits.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Mike Curtis was employed by Pilot Travel Centers, L.L.C. as a full-time Food Service Leader (manager) from April 2018 until June 18, 2019. Mr. Curtis was responsible for running the Subway restaurant located with the Flying J Travel Center in Williams, Iowa. Tanya Calef, Restaurant General Manager, was Mr. Curtis' supervisor. When Mr. Curtis arrived for work on the afternoon of June 18, 2019, Ms. Calef confronted Mr. Curtis about leaving the Subway in an

unsatisfactory state the previous evening. Prior to speaking with Mr. Curtis, Ms. Calef had reviewed surveillance video that showed Mr. Curtis loafing in the manager's office with other Flying J staff during much of the previous evening. When Ms. Calef spoke to Mr. Curtis on June 18, Mr. Curtis first asserted that other employees were not performing their work. When Ms. Calef asked Mr. Curtis whether he had been having a party in the office, Mr. Curtis asserted that his knee had been hurting. Mr. Curtis then got angry and stated, "You've got my two weeks today!" Ms. Calef told Mr. Curtis, "Thanks, but I don't need the two weeks." In other words, Ms. Calef terminated the employment at that time, rather than allow Mr. Curtis to work through a two-week notice period. Based on the two-week notice provided on June 18, 2019, the effective quit date would have been July 2, 2019.

#### **REASONING AND CONCLUSIONS OF LAW:**

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.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

Iowa Admin. Code r. 871-24.25(28) 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:

(28) The claimant left after being reprimanded.

Iowa Admin. Code r. 871-24.25(38) 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:

(38) Where the claimant gave the employer an advance notice of resignation which caused the employer to discharge the claimant prior to the proposed date of resignation, no disqualification shall be imposed from the last day of work until the proposed date of resignation; however, benefits will be denied effective the proposed date of resignation.

The evidence in the record establishes a voluntary quit without good cause attributable to the employer. The voluntary quit was in response to a verbal reprimand. The voluntary quit was effective July 2, 2019. Because the employer elected to discharge Mr. Curtis effective June 18, 2019 in response to his two-week notice and based on his upset demeanor, Mr. Curtis is eligible for benefits for the two-week notice period, provided he meets all other eligibility requirements. The benefit weeks that correspond to that notice period are the benefit weeks that ended June 22, 2019 and June 29, 2019. The employer's account may be charged for benefits paid to Mr. Curtis for those two weeks. Effective the voluntary quit date, July 2, 2019, Mr. Curtis is disqualified for benefits until he has worked in and been paid wages for insured work equal to 10 times his weekly benefit amount. Mr. Curtis must meet all other eligibility requirements. The employer's account shall not be charged for benefits for the period beginning June 30, 2019.

**DECISION:**

The July 8, 2019, reference 01, decision is affirmed. The claimant voluntary quit the employment without good cause attributable to the employer. The quit was effective July 2, 2019. Because the employer terminated the employment in response to the quit notice, the claimant is eligible for benefits for the two-week period of June 16, 2019 through June 29, 2019, provided he meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant for those two weeks. Effective July 2, 2019, the claimant is disqualified for benefits until he has worked in and been paid wages for insured work equal to 10 times his weekly benefit amount. The claimant must meet all other eligibility requirements. The employer's account shall not be charged for benefits for the period beginning June 30, 2019.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

jet/rvs