

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MICHAEL D QUISTORFF
Claimant

APPEAL NO. 07A-UI-05984-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WESTERN HOME COMMUNITIES INC
Employer

**OC: 05/20/07 R: 03
Claimant: Appellant (1)**

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Michael Quistorff filed a timely appeal from the June 11, 2007, reference 02, decision that denied benefits. After due notice was issued, a hearing was held on July 2, 2007. Claimant participated. Kim Drennan, Director of Human Resources, represented the employer. Exhibit One was received into evidence.

ISSUES:

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

Whether the claimant left the employment in good faith for the sole purpose of accepting other or better employment, accepted the employment, and performed services for the new employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Michael Quistorff was employed by Western Home Communities as a full-time carpenter and maintenance technician from October 1988 until he quit on April 18, 2007 to attend truck driving school. Mr. Quistorff submitted a written resignation on April 4, which the employer accepted. Mr. Quistorff quit due to dissatisfaction with the wages after 18 years in the employment. Mr. Quistorff wished to make more money and the employer was not willing to increase Mr. Quistorff's wage. The employer continued to have work available for Mr. Quistorff at his same wages. Mr. Quistorff had not accepted another job prior to resigning or quitting the employment.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5-1-a 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. But the individual shall not be disqualified if the department finds that:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

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.

Where a person quits due to dissatisfaction with the wages, but was aware of the wages well before the quit, the quit is presumed to be without good cause attributable to the employer. See 871 IAC 24.25(13). Where a person quits to attend school, the quit is presumed to be without good cause attributable to the employer. See 871 IAC 24.25(26)

The greater weight of the evidence indicates that Mr. Quistorff voluntarily quit the employment because he was dissatisfied with the wages he made and the employer was not willing to increase the wages. Mr. Quistorff had worked for the employer an extended time and was well aware of his wages during that time. The evidence also indicates that Mr. Quistorff quit to attend school. Both of the reasons for quitting were without good cause attributable to the employer. Mr. Quistorff did not quit the employment to accept new employment and had not accepted new employment prior to the quit. Accordingly, the requalification provision set forth in Iowa Code section 96.5(1)(a) does not apply.

Mr. Quistorff voluntarily quit the employment without good cause attributable to the employer. Accordingly, Mr. Quistorff is disqualified for benefits until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The employer's account shall not be charged for benefits paid to Mr. Quistorff.

DECISION:

The Agency representative's June 11, 2007, reference 02, decision is affirmed. The claimant voluntarily quit the employment without good cause attributable to the employer. The claimant

is disqualified for benefits until he has worked in a been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The employer's account shall not be charged.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/css