

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

**ALAN P BRINK**  
Claimant

**APPEAL NO. 18A-UI-09880-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**GENERAL DYNAMICS INFORMATION  
TECHNOLOGY**  
Employer

**OC: -09/02/18**  
**Claimant: Appellant (2)**

Iowa Administrative Code rule 871-24.1(113) – Layoff

**STATEMENT OF THE CASE:**

Alan Brink filed a timely appeal from the September 19, 2018, reference 01, decision that disqualified him for benefits and that relieved the employer of charges, based on the Benefits Bureau deputy's conclusion that Mr. Brink voluntarily quit on August 28, 2018 without good cause attributable to the employer. After due notice was issued, a hearing was held on October 11, 2018. Ms. Brink participated. The employer did not respond to the hearing notice instructions to register a telephone number for the hearing and did not participate. Exhibit A was received into evidence.

**ISSUE:**

Whether Mr. Brink separated from the employment for a reason that disqualifies him for benefits and that relieves the employer's account of liability for benefits.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Alan Brink was employed by General Dynamics Information Technology as a full-time customer service representative until August 28, 2018. Mr. Brink began the employment in 2011. Mr. Brink's immediate supervisor was Tammie Donnely. In March 2018, the employer notified Mr. Brink that he would be laid off effective September 4, 2018. Mr. Brink desired to use accrued vacation pay benefits for the last week of the employment prior to the scheduled layoff. Ms. Donnely advised Mr. Brink that it would be better if he just resigned on August 28, 2018. Ms. Donnely told Mr. Brink that if he resigned on August 28 he would forfeit insurance coverage for September 2018, but referenced no other potential consequence to Mr. Brink. On August 24, 2018, Mr. Brink submitted written notice to the employer that he would be leaving the employment effective August 28, 2018. Mr. Brink had not accepted other employment at the time he submitted his resignation.

Mr. Brink established an original claim for unemployment insurance benefits that was effective September 2, 2018.

## REASONING AND CONCLUSIONS OF LAW:

Workforce Development rule 871 IAC 24.1(113) provides as follows:

Separations. All terminations of employment, generally classifiable as layoffs, quits, discharges, or other separations.

a. Layoffs. A layoff is a suspension from pay status initiated by the employer without prejudice to the worker for such reasons as: lack of orders, model changeover, termination of seasonal or temporary employment, inventory-taking, introduction of laborsaving devices, plant breakdown, shortage of materials; including temporarily furloughed employees and employees placed on unpaid vacations.

b. Quits. A quit is a termination of employment initiated by the employee for any reason except mandatory retirement or transfer to another establishment of the same firm, or for service in the armed forces.

c. Discharge. A discharge is a termination of employment initiated by the employer for such reasons as incompetence, violation of rules, dishonesty, laziness, absenteeism, insubordination, failure to pass probationary period.

d. Other separations. Terminations of employment for military duty lasting or expected to last more than 30 calendar days, retirement, permanent disability, and failure to meet the physical standards required.

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 Code section 96.5(2)a provides:

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

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The disqualification shall continue until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

Iowa Administrative Code rule 871-24.26(13) provides as follows:

A claimant who, when told of a scheduled future layoff, leaves employment before the layoff date shall be deemed to be not available for work until the future separation date

designated by the employer. After the employer-designated date, the separation shall be a layoff.

The evidence in the record establishes that Mr. Brink was laid off effective September 4, 2018. The employer announced the effective layoff date prior to Mr. Brink's resignation memo, indicating there would be no more work for Mr. Brink beyond September 4, 2018. Mr. Brink's decision to leave the employment a week prior to the scheduled layoff did not establish a voluntary quit for unemployment insurance purposes and would not disqualify Mr. Brink for benefits in connection with original claim Iowa Workforce Development deemed effective September 2, 2018. Mr. Brink is eligible for benefits in connection with the September 2, 2018 original claim, provided he meets all other eligibility requirements. The employer's account may be charged.

**DECISION:**

The September 19, 2018, reference 01, decision is reversed. The claimant was laid off effective September 4, 2018. The claimant is eligible for benefits in connection with the September 2, 2018 original claim, provided he meets all other eligibility requirements. The employer's account may be charged.

---

James E. Timberland  
Administrative Law Judge

---

Decision Dated and Mailed

jet/rvs