

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BRIDE, FARRIS, L
Claimant

APPEAL NO. 13A-UI-01465-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

JACOBSON STAFFING COMPANY LC
Employer

OC: 10/07/12
Claimant: Appellant (1)

Section 96.5(1)(a) – Voluntary Quit to Accept Other Employment

STATEMENT OF THE CASE:

Farris Bride filed a timely appeal from the January 30, 2013, reference 02, decision that denied benefits, based on an agency conclusion that he had voluntarily quit without good cause attributable to the employer on December 14, 2012. After due notice was issued, a hearing was held on March 8, 2013. Mr. Bride participated. The employer did not respond to the hearing notice instructions to provide a telephone number for the hearing and did not participate. The administrative law judge took official notice of the Agency's record of benefits of wages paid to the claimant during the fourth quarter of 2012.

ISSUES:

Whether Mr. Bride's voluntary quit was for good cause attributable to the employer. It was not.

Whether Mr. Bride voluntarily quit for the sole purpose of accepting other, better employment and performed work for the new employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Farris Bride was employed by Jacobson Staffing Company as a full-time laborer from October 28, 2012 until December 14, 2012 when he voluntarily quit. At the time Mr. Bride quit the employment with Jacobson Staffing, he had a conditional offer of employment from CR England Trucking. The offer from CR England Trucking was conditioned upon Mr. Bride successfully completing a commercial truck driving class and passing a Department of Transportation physical. Mr. Bride was unable to pass the D.O.T. physical and CR England Trucking rescinded the offer of employment. Mr. Bride never actually performed work for CR England Trucking.

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)(a) provides as follows:

Causes for disqualification.

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.

[Emphasis added.]

The administrative law judge must follow the plain language of the statute. The evidence in the record establishes that Mr. Bride voluntarily quit the employment with Jacobson Staffing Company without good cause attributable to that employer. The evidence establishes that Mr. Bride quit for the sole purpose of accepting other employment with CR England Trucking. However, the evidence indicates that Mr. Bride never actually performed any work for CR England Trucking. Based on the plain language of Iowa Code section 96.5(1)(a), the administrative law judge concludes that Mr. Bride is not eligible for benefits because he did not actually perform any work for the new employer. Mr. Bride 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 account of Jacobson Staffing Company shall not be charged for benefits.

DECISION:

The Agency representative's January 30, 2013, reference 02, decision is affirmed. The claimant voluntarily quit the employment without good cause attributable to the employer. Claimant quit to accept other employment, but did not perform work for the new employer. The claimant 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.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

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