

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BRADLEY A PACKARD
Claimant

APPEAL NO. 07A-UI-09575-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FISCHELS MUSIC INC
Employer

**OC: 09/09/07 R: 03
Claimant: Appellant (1)**

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The claimant, Bradley Packard, filed an appeal from a decision dated October 8, 2007, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on October 29, 2007. The claimant participated on his own behalf. The employer, Fischels Music, participated by Owner Kurt Fischels and Service and Installation Tech John Kressin. Exhibit One was admitted into the record.

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

Bradley Packard was employed by Fischels Music from October 1994 until April 27, 2007, as a full-time service and installation technician working 8:00 a.m. until 4:30 p.m. On April 25, 2007, the claimant was served with notice that his wages were being garnished and he became very upset. He told co-worker John Kressin he could not work with people taking all his wages and left his keys on the desk and left.

Mr. Packard asserted he only intended to go to the courthouse to find out who was garnishing his wages and why. However, that business only took him about an hour and after that he did not return to work but went home. At no point had he asked for permission to leave his work and go to the courthouse or to go home for the rest of the day. Around 5:00 p.m. Mr. Kressin came to the claimant's home with the company cell phone which he handed to Mr. Packard and told him Mr. Fischels was on the line and they should talk to one another. The claimant asked the employer if he was being fired and the employer said he could not fire him because he quit.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5-1 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.

871 IAC 24.25(27) 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:

(27) The claimant left rather than perform the assigned work as instructed.

The claimant maintains he was fired but the record does not support this contention. When Mr. Packard received notice his wages were garnished he put his keys on the employer's desk and left his work place without permission. His assertion he was only going to the courthouse to find out who was garnishing his wages is also not credible because he did not return to work after concluding that business, but went home. This is evidence of a quit, especially as he made no attempt to contact his employer to discuss the matter.

The record establishes the claimant quit because he refused to continue working. Under the provisions of the above Administrative Code section, this is a voluntary quit without good cause attributable to the employer and the claimant is disqualified.

DECISION:

The representative's decision of October 8, 2007, reference 01, is affirmed. Bradley Packard is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css