

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**WAYNE D LONES**

Claimant

**APPEAL NO. 13A-UI-09252-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WINNEBAGO INDUSTRIES**

Employer

**OC: 07/21/13**

**Claimant: Appellant (1)**

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

**STATEMENT OF THE CASE:**

Wayne Lones filed a timely appeal from the August 9, 2013, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on September 16, 2013. Mr. Lones did not provide a telephone number for the hearing in response to the hearing notice instructions and did not participate in the hearing. Gary McCarthy represented the employer and presented additional testimony through Mark Ring. Exhibit One was received into evidence.

**ISSUE:**

Whether Mr. Lones voluntarily quit the employment for a reason that disqualifies him for unemployment insurance benefits.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Wayne Lones was employed by Winnebago Industries as a full-time line assembly worker from January 2013 until July 19, 2013, when he voluntarily quit to accept new employment at a Denny's restaurant. Mr. Lones provided a two-week verbal notice of quit and submitted a written notice of quit on his last day. Winnebago continued to have work available for Mr. Lones at the time he voluntarily quit.

**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 establishes that Mr. Lones voluntarily quit to accept new employment. However, there is insufficient evidence in the record to establish that Mr. Lones did indeed perform work for the prospective new employer. Mr. Lones did not participate in the hearing and, thereby, failed to present any evidence to establish that he did in fact go to work for the new employer. The employer's belief that Mr. Lones commenced new employment is insufficient to establish Mr. Lones did indeed perform work for the new prospective employer.

Mr. Lones voluntarily quit the employment without good cause attributable to the employer. Accordingly, Mr. Lones 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.

**DECISION:**

The agency representatives August 9, 2013, reference 01, 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 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.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

jet/pjs