

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RODNEY J REMA
Claimant

APPEAL NO. 11A-UI-10938-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CAPTIVE AIRE SYSTEMS INC
Employer

**OC: 07/24/11
Claimant: Appellant (1)**

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Rodney Rema filed a timely appeal from the August 12, 2011, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on September 12, 2011. Mr. Rema participated. Jeff Fells represented the employer and presented additional testimony through Roger Stahr. Exhibits One through Four and A were received into evidence.

ISSUE:

Whether Mr. Rema separated from 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: Rodney Rema was employed by Captive Aire Systems as a full-time assembler from 2007 until July 20, 2011, when he voluntarily quit. Mr. Rema's immediate supervisor was Line Lead Todd Nydegger. Mr. Nydegger reported to Floor Supervisor Roger Stahr. Jeff Fells was the Plant Manager. Mr. Rema's usual work hours were 6:00 a.m. to 2:30 p.m., Monday through Friday, but the employer sometimes required overtime work.

On July 20, 2011, the employer posted notice in the morning that two hours of overtime would be required at the end of the day because production was behind schedule. This was the employer's usual means of making workers aware of required overtime. Mr. Rema somehow missed the notice during the morning, but learned about the overtime requirement from a coworker early in the afternoon. Shortly after 2:00 p.m., Mr. Nydegger walked through Mr. Rema's work area and reminded Mr. Rema of the required overtime. Mr. Rema told Mr. Nydegger that he would not be staying for the overtime because his back was hurting. Mr. Nydegger summoned Floor Supervisor Roger Stahr, who asked Mr. Rema why he was not going to work the overtime hours. Mr. Rema again indicated that his back hurt. Mr. Stahr told Mr. Rema that if he did not stay and work the overtime hours, he would be written up. Mr. Rema became upset and launched into complaints he had about Mr. Nydegger. Mr. Rema used a loud voice and profanity. Mr. Stahr responded in kind. Mr. Stahr then directed

Mr. Rema to collect his things and indicated they were going to go speak with Plant Manager Jeff Fells.

When Mr. Stahr and Mr. Rema got to Mr. Fells, Mr. Rema asserted that he had not known about the overtime work until the last minute. Mr. Stahr advised that the overtime notice had been posted at 7:00 a.m. Mr. Rema continued to be upset and agitated. In response, Mr. Stahr said, "I think he had worked his last day if he keeps that attitude up." Mr. Rema then made his way to the time clock. It was not yet the end of Mr. Rema's normal shift. At some point, Mr. Rema stepped into Mr. Stahr's personal space in an intimidating manner and Mr. Stahr directed him to step back. After Mr. Rema clocked out, Mr. Rema started off to take his time card to another department for processing. Mr. Stahr said he would take care of the time card. Mr. Rema then left. Before Mr. Rema left, Mr. Stahr told him that he would not hold the incident against him.

Mr. Rema next made contact with the employer 10 to 14 days later, when he went to Mr. Fells' home and asked to return to the employment.

REASONING AND CONCLUSIONS OF LAW:

A discharge is a termination of employment initiated by the employer for such reasons as incompetence, violation of rules, dishonesty, laziness, absenteeism, insubordination, or failure to pass a probationary period. 871 IAC 24.1(113)(c). A quit is a separation initiated by the employee. 871 IAC 24.1(113)(b). 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.

The weight of the evidence in the record establishes a quit, not a discharge. The evidence establishes that Mr. Stahr did not tell Mr. Rema that he was indeed discharged from the employment, but instead threatened discharge if Mr. Rema did not change his demeanor. Mr. Rema, who was already upset, went to the time clock, punched out before it was time, and left the facility. Mr. Rema testified that Mr. Stahr specifically told him before he left that he would not hold the incident against him. Mr. Rema then elected not to make further contact with the employer for at least 10 days.

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.

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.

When a worker voluntarily quits employment due to dissatisfaction with the work environment or due to a personality conflict with a supervisor, the quit is presumed to be without good cause attributable to the employer. See 871 IAC 24.25(21) and (22).

On the other hand, if a worker voluntarily quits due to intolerable and/or detrimental working conditions, the quit is deemed to be for good cause attributable to the employer. See 871 IAC 24.26(4).

The weight of the evidence fails to establish a medical basis for Mr. Rema's abrupt voluntary quit from the employment. The evidence also fails to establish intolerable and/or detrimental working conditions. The employer had a reasonable basis for requiring overtime hours and had provided proper notice. Mr. Rema had a legitimate basis for not wanting to stay to perform the overtime work. Had Mr. Rema left at the scheduled end of his shift, and had the employer discharged him as a result, Mr. Rema would probably have been found eligible for unemployment insurance benefits. But, Mr. Rema's actions on July 20 went well beyond raising a legitimate concern about the overtime work. Instead, Mr. Rema used his legitimate concern about his back as a spring board to launch a profanity-laced tirade about his immediate supervisor, about the overtime requirement, and about the work environment. A reasonable person would not have been at all surprised by Mr. Stahr's comment that Mr. Rema might be working his last day if he kept it up. Rather than heed that as a warning, Mr. Rema continued down the same path and decided to leave the workplace before the end of his shift. He then stayed away for at least 10 days before he reconsidered and contacted Mr. Fells with a request to return to the employment.

The weight of the evidence establishes that Mr. Rema voluntarily quit for personal reasons and not for good cause attributable to the employer. Accordingly, Mr. Rema 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. Rema.

DECISION:

The Agency representative's August 12, 2011, 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.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/kjw