

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHRISTOPHER HARPER
Claimant

APPEAL NO: 06A-UI-08728-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

EASTERN IOWA TIRE INC
Employer

**OC: 07/30/06 R: 04
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Christopher Harper (claimant) appealed an unemployment insurance decision dated August 29, 2006, reference 01, which held that he was not eligible for unemployment insurance benefits because he voluntarily quit his employment with Eastern Iowa Tire, Inc. (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 18, 2006. The claimant participated in the hearing. The employer participated through Brad Vanblaricom, Sales Manager. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time sales representative from approximately April 28, 2005 through August 4, 2006 when he voluntarily quit after being reprimanded. The employer is required by federal regulations to have its sales representatives turn in their call reports on a daily basis. The claimant had difficulty turning in his reports on time and the employer was giving him a warning on August 4, 2006 when the claimant became angry and began to argue. He was also upset about the fact that the employer was taking a deduction out of his paycheck from a previous accident. The employer told the claimant he was done talking and gave him his options.

The claimant had 60 days to improve his job performance and do the job the way the employer wanted him to do it. The employer was also taking away his company cell phone because the claimant abused it. He had been repeatedly warned about using the phone for personal use but continued to average between 1,500 to 1,600 minutes per month when the phone plan provided

700 minutes. The claimant said, "No thanks" and left. He returned later that day and turned in the employer's printer and credit card.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the reasons for the claimant's separation from employment qualify him to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if he voluntarily quit without good cause attributable to the employer or if the employer discharged him for work-connected misconduct. Iowa Code §§ 96.5-1 and 96.5-2-a.

Although the claimant contends he was discharged from employment, the facts establish he voluntarily quit. In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980) and Peck v. Employment Appeal Bd., 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant demonstrated his intent to quit and acted to carry it out by walking off the job after being reprimanded. If he had been discharged as claimed, the employer would have demanded he return the company credit card before leaving. Since this was not mentioned, it confirms the claimant's separation was voluntary.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. The law presumes it is a quit without good cause attributable to the employer when an employee leaves after being reprimanded. 871 IAC 24.25(28). The claimant failed to meet his burden and benefits are denied.

DECISION:

The unemployment insurance decision dated August 29, 2006, reference 01, is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/cs