

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

KEVIN M VERES Claimant BOSSELMAN FOOD SERVICES INC Employer	<div>68-0157 (9-06) - 3091078 - EI</div> <div>APPEAL NO. 17A-UI-01777-JTT ADMINISTRATIVE LAW JUDGE DECISION</div> <div>OC: 01/22/17 Claimant: Appellant (5)</div>
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Iowa Code Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Kevin Veres filed a timely appeal from the February 13, 2017, reference 01, decision that disqualified him for benefits and that relieved the employer of liability for benefits, based on the claims deputy's conclusion that Mr. Veres was discharged on January 22, 2017 for insubordination in connection with his work. After due notice was issued, a hearing was held on March 9, 2017. Mr. Veres participated. Ahmad Barber represented the employer and presented additional testimony through Rochelle Sutton. Exhibit 1 was received into evidence.

ISSUE:

Whether Mr. Veres separated from the employment for a reason that disqualifies him for benefits or that relieves the employer of liability for benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Kevin Veres was employed by Bosselman Food Services as a full-time line cook at Max's Diner in Altoona from 2001 until January 21, 2017, when he voluntarily quit in response to a reprimand. Ahmad Barber, General Manager, was Mr. Veres' immediate supervisor.

On January 21, 2017, Mr. Barber and Rochell Sutton, Supervisor, met with Mr. Veres to issue a written reprimand to Mr. Veres. The reprimand was based on a number of recent issues in the employment. These included concerns that Mr. Veres had left without performing all of his assigned work, that Mr. Veres had been using excessive profanity, and that Mr. Veres had hung up on Mr. Barber on January 16, 2017, when Mr. Barber was speaking to him about leaving the cooks' line without stocking the line. The employer's intention was to issue the reprimand as a first written warning and to continue the employment. During the meeting, Mr. Barber told Mr. Veres that his work was unsatisfactory, that the unsatisfactory work would no longer be tolerated, and that Mr. Veres would have to do better. Mr. Barber said nothing about dismissing Mr. Veres from the employment. Mr. Veres became upset and began to raise his voice. Mr. Veres stated, "Fuck it. I quit." Mr. Veres threw the write up on the desk, walked out of the office, and left the workplace. Mr. Veres did not return.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 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.

Iowa Admin. Code r. 871-24.25(28) 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:

- (28) The claimant left after being reprimanded.

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 establishes that Mr. Veres voluntarily quit and was not discharged from the employment. Mr. Veres' quit was in immediate response to issuance of the reprimand. The quit was without good cause attributable to the employer. Mr. Veres is disqualified for benefits until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount. Mr. Veres must meet all other eligibility requirements. The employer's account shall not be charged for benefits.

DECISION:

The February 13, 2017, reference 01, decision is modified as follows. 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. The claimant must meet all other eligibility requirements. The employer's account shall not be charged for benefits.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/rvs