

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

NICHOLAS R PETTY
Claimant

APPEAL NO. 09A-UI-08521-E2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

ACTION WAREHOUSE CO LTD
Employer

**Original Claim: 05/03/09
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed an appeal from a representative's decision dated June 12, 2009, reference 01, which held the claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on June 30, 2009. The claimant participated. The employer participated by Elle Soudera.

ISSUE:

The issue in this matter is whether the claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds: The claimant was hired by the Action Staffing, a division of Action Warehouse, to work for UPA. UPA was installing new meters for a local utility company. The job was for at least 40 hours plus guaranteed overtime. The claimant started work in May 2008. As the summer went on, the claimant was working more and more overtime. The claimant was working 60 hours per week in September 2008. On September 27, 2008, the claimant did not show up for work. His employer called him and he told them he no longer wanted to work this assignment, as it had too many overtime hours. The employer told him if he did not want to work, his assignment was terminated because he would not do the work. The claimant had asked for other assignments from his employer from time to time. The employer had work available for the claimant.

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.

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 claimant quit. He no longer wanted to work for the employer doing work for UPA. Work was available. The claimant did not want to continue working overtime. Overtime was part of the job and was explained to him at the time of hire. While the claimant had good personal reasons for quitting, his quitting was not attributable to his employer.

DECISION:

The representative's decision dated June 12, 2009, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

James Elliott
Administrative Law Judge

Decision Dated and Mailed

jfe/kjw