

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GREG P KRAMBECK

Claimant

APPEAL NO. 11A-UI-06471-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

STEVE DAVIS

ALLIED CONSTRUCTION SERVICES

Employer

OC: 03/20/11

Claimant: Appellant (2)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated May 5, 2011, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on June 10, 2011. Claimant participated. Employer participated by Adam Luecje, Flooring manager. The record consists of the testimony of Greg Krambeck and the testimony of Adam Luecje.

ISSUE:

Whether the claimant voluntarily left for good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The employer provides general constructions services. The claimant was hired on January 15, 2008, as an apprentice carpet installer. The apprentice program was affiliated with Carpenters' Local 106. The claimant graduated from the apprentice program on November 12, 2010. He worked one day during the payroll period that ended on November 19, 2010. His supervisor, Nick Cox, told him that he was laid off and would be called back when work was available. The claimant has not been called back to work. He did not quit his job. He has done some side jobs, which is permissible.

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.

871 IAC 24.1(113)a provides:

Separations. All terminations of employment, generally classifiable as layoffs, quits, discharges, or other separations.

a. Layoffs. A layoff is a suspension from pay status (lasting or expected to last more than seven consecutive calendar days without pay) initiated by the employer without prejudice to the worker for such reasons as: lack of orders, model changeover, termination of seasonal or temporary employment, inventory-taking, introduction of laborsaving devices, plant breakdown, shortage of materials; including temporarily furloughed employees and employees placed on unpaid vacations.

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 greater weight of the evidence in this case is that the claimant was laid off for lack of work. The claimant graduated from an apprentice carpet installer program and only worked one day for the employer after that graduation. He was informed that he was laid off and he has not been called back to work since. The claimant has taken a few side jobs, which he was told was permissible. The claimant never quit his job and is still waiting to be called back to work.

Iowa law provides that a layoff for lack of work is considered a separation of employment. The claimant is eligible for unemployment insurance benefits provided he is otherwise eligible.

DECISION:

The decision of the representative dated May 5, 2011, reference 01, is reversed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/css