

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

GRANT TOWNSEND

Claimant

APPEAL NO. 19A-UI-02083-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

J L CHITTY GARBAGE SERVICE INC

Employer

OC: 02/10/19

Claimant: Appellant (4R)

Iowa Administrative Code rule 871-24.1(113) – Layoff

STATEMENT OF THE CASE:

Grant Townsend filed a timely appeal from the March 7, 2019, reference 01, decision that held he was disqualified for benefits and the employer's account would not be charged for benefits, based on the deputy's conclusion that Mr. Townsend voluntarily quit on January 1, 2019 without good cause attributable to the employer. After due notice was issued, a hearing was held on March 26, 2019. Mr. Townsend participated. The employer did not comply with the hearing notice instructions to register a telephone number for the hearing and did not participate. Exhibit A was received into evidence.

ISSUES:

Whether the claimant voluntarily quit without good cause attributable to the employer.

Whether the claimant was laid off.

Whether the claimant was discharged for misconduct in connection with the employment that disqualifies the claimant for unemployment insurance benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Grant Townsend was employed by J.L. Chitty Garbage Service, Inc. as a full-time garbage truck driver from 2016 until the beginning of 2019, when the owners of J L Chitty Garbage Service, Inc., Patrick Chitty and Mike Chitty, sold their company to Waste Connections and Mr. Townsend became an employee of the new business owner. Waste Connections subsequently ended the employment.

REASONING AND CONCLUSIONS OF LAW:

Iowa Administrative Code rule 871-24.1(113) characterizes the different types of employment separations as follows:

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

a. Layoffs. A layoff is a suspension from pay status 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.

b. Quits. A quit is a termination of employment initiated by the employee for any reason except mandatory retirement or transfer to another establishment of the same firm, or for service in the armed forces.

c. Discharge. A discharge is a termination of employment initiated by the employer for such reasons as incompetence, violation of rules, dishonesty, laziness, absenteeism, insubordination, failure to pass probationary period.

d. Other separations. Terminations of employment for military duty lasting or expected to last more than 30 calendar days, retirement, permanent disability, and failure to meet the physical standards required.

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 Iowa Administrative Code rule 871-24.25.

The named employer in interest, J.L. Chitty Garbage Service, Inc., did not respond to the appeal hearing notice. Accordingly, the evidence in the record is limited to the testimony of the claimant and his online appeal document.

The evidence in the record establishes that the named employer in interest, J.L. Chitty Garbage Service, Inc., laid off Mr. Townsend in connection with that company's sale of its business to Waste Connections at the start of 2019. The layoff would not disqualify Mr. Townsend for unemployment insurance benefits. Contrast Iowa Code Section 96.5(1) (regarding voluntary quits without good cause attributable to the employer) and Iowa Code Section 96.5(2)(a) (regarding discharges for misconduct in connection with the employment). In connection with the layoff, Mr. Townsend is eligible for benefits, provided he meets all other eligibility requirements. The employer's account may be charged.

This matter will be remanded to the Benefits Bureau for adjudication of the claimant's subsequent separation from Waste Connections, Inc. (employer account number 294876) and for determination of whether Waste Connections is a successor to J.L. Chitty Garbage Service, Inc. (employer account number 126871).

DECISION:

The March 7, 2019, reference 01, decision is modified as follows. The claimant was laid off on or about January 1, 2019 in connection with sale of the employer's business. Based on the layoff, the claimant is eligible for benefits provided he meets all other eligibility requirements.

This matter is remanded to the Benefits Bureau for adjudication of the claimant's subsequent separation from Waste Connections, Inc. (employer account number 294876) and for determination of whether Waste Connections is a successor to J.L. Chitty Garbage Service, Inc. (employer account number 126871).

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/rvs