

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BILLY D TAYLOR
Claimant

APPEAL NO. 11A-UI-02639-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

DONUT N DELI INC
Employer

OC: 12/19/10
Claimant: Appellant (1)

Section 96.5-2-A – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated February 22, 2011, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on March 24, 2011. Employer participated by Vicki Zinkula, Owner, and Marnie Boatwright, Manager. Claimant failed to respond to the hearing notice and did not participate. The record consists of the testimony of Vicki Zinkula and the testimony of Marnie Boatwright.

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 is a donut and sandwich shop located in Cedar Rapids, Iowa. The claimant was hired on January 16, 2008. He initially began working in customer service and was later promoted to production and finally to a baker position. The claimant's last day of work was November 22, 2010.

On November 22, 2010, a meeting was held with the claimant, another baker, Ms. Boatwright and Ms. Zinkula. One of the other bakers had quit and Ms. Zinkula told the group that it was going to be necessary to have a baking team. The claimant and the other baker would be working together. No hours were cut and no pay was reduced.

After the meeting, at approximately 5:30 p.m., Marnie Boatwright received a call from the other baker. She was informed that the claimant was gone. Ms. Boatwright texted the claimant and asked him if he was coming back. He told her that he was not coming back and that there was too much stuff going on. Ms. Boatwright later learned he was angry that he had not been named head baker. A week later the claimant turned in his uniforms. Work was available for the claimant at the time he walked off the job.

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 evidence is uncontroverted that it was the claimant who initiated the separation of employment. The claimant was apparently angry that he had not been named head baker and walked off the job. The employer asked him if was coming back and he said no. He then turned in his uniforms a week later. The claimant's intent to sever the employment relationship is evidence in both his refusal to work and returning his uniforms. The claimant voluntarily left without good cause attributable to the employer. Benefits are denied.

DECISION:

The decision of the representative dated February 22, 2010, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/css