

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CLINT BAKER
Claimant

APPEAL NO. 07A-UI-08175-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BRANDT CONSTRUCTION COMPANY
Employer

OC: 11/19/06 R: 04
Claimant: Respondent (2)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Brandt Construction (employer) appealed an unemployment insurance decision dated August 22, 2007, reference 02, which held that Clint Baker (claimant) was eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 13, 2007. The claimant participated in the hearing. The employer participated through owner Terrance Brandt. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time carpenter from June 12, 2006 through July 12, 2007. He sustained a work-related injury on May 30, 2007 and was taken off work through June 29, 2007. Following that date, he had work restrictions of working four hours the first week, six hours the second week and would be back at full-time hours the third week. The employer did not have any work available for him with his restrictions so expected him to return to work on July 16, 2007 when he was released to full duties. The claimant called the employer on July 12, 2007 and said he was no longer comfortable working there because the claimant believed the employer and his father-in-law had a personal conversation about him. The claimant has had problems with his father-in-law for 18 years and he heard the father-in-law was telling others in a café that the employer had told him personal information about the claimant. In fact, the father-in-law had provided personal information about the claimant to the employer but the employer never released any unauthorized information to the father-in-law. The employer liked the claimant and thought he was a good worker. They were waiting for him to return to work as he was needed but the claimant opted to quit based on gossip from a person with whom he does not get along.

The claimant filed a claim for unemployment insurance benefits effective November 19, 2006 but has not received benefits after the separation from this employer.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits. He is not qualified to receive unemployment insurance benefits if he voluntarily quit without good cause attributable to the employer. Iowa Code § 96.5-1.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980) and Peck v. Employment Appeal Bd., 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant demonstrated his intent to quit and acted to carry it out by calling the employer on July 12, 2007 and stating that he was no longer comfortable working for the employer. He admits leaving this message but claims that he was fired because the employer had not called him to return to work. Where an individual mistakenly believes that he is discharged and discontinues coming to work (but was never told he was discharged), the separation is a voluntary quit without cause attributable to the employer. LaGrange v. Iowa Department of Job Service, (Unpublished Iowa Appeals 1984).

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. He has not satisfied that burden and benefits are denied.

DECISION:

The unemployment insurance decision dated August 22, 2007, reference 02, is reversed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. There is no overpayment as a result of this decision.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/css