

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DAVID STOWE
Claimant

APPEAL NO. 06A-UI-10918-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

D A DAVIS COMPANY INC
Employer

OC: 09/03/06 R: 01
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

David Stowe (claimant) appealed an unemployment insurance decision dated November 3, 2006, reference 03, which held that he was not eligible for unemployment insurance benefits because he voluntarily quit his employment with D A Davis Company, Inc. (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 29, 2006. The claimant participated in the hearing. The employer participated through Brad Smith and Roger Goss. 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 having considered all of the evidence in the record, finds that: The claimant was employed as a full-time laborer from August 21, 2006 through September 25, 2006, when he was considered to have voluntarily quit his employment. His last day of work was September 16, 2006, and he called in on the following Monday to report he was not going to be at work because his dog was having puppies. He did not call the employer again until the end of the week, at which time the employer advised him that when he failed to call him, it was assumed he quit and the employer replaced him.

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 failing to call or report to work after September 18, 2006. He did not call the employer to indicate otherwise and the employer replaced him by the end of the week.

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 November 3, 2006, reference 03, is affirmed. 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.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/kjw