

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ARCHIE L BURNS
Claimant

APPEAL NO. 14A-UI-09851-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

PACKERS SANITATION SERVICES INC
Employer

OC: 09/01/13
Claimant: Appellant (1)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Archie Burns filed a timely appeal from the September 15, 2014, reference 03, decision that disqualified him for benefits and that relieved the employer of liability for benefits, based on an Agency conclusion that he had voluntarily quit without good cause attributable to the employer. After due notice was issued, a hearing was held on October 10, 2014. Mr. Burns participated. Eric Jackson represented the employer.

ISSUE:

Whether Mr. Burns separated from the employment for a reason that disqualifies him for benefits or that relieves the employer of liability for benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Archie Burns was employed by Packers Sanitation as a full-time sanitation worker from April 17, 2014 and last performed work for the employer on July 30, 2014. Mr. Burns was assigned to the Tyson Fresh Meats facility in Waterloo. Nicholas Hernandez, Floor Supervisor, was Mr. Burns' immediate supervisor. Eric Jackson, Site Manager, was immediately above Mr. Hernandez in the company hierarchy. Mr. Burns' regular work hours were 11:30 p.m. to 7:30 a.m. Monday evening through Saturday morning.

On July 30, 2014 the employer suspended Mr. Burns from work for three days due to Mr. Burns' failure to perform his duties as assigned. The designated dates of the suspension were July 31, August 1, and August 4, 2014. Mr. Burns was supposed to return to work on August 5, 2014 but did not return to work that day. Mr. Burns was absent on August 5, 6 and 7, 2014 without notifying the employer. If Mr. Burns needed to be absent from the employment, the employer's policies required that Mr. Burns notify the employer. The employer then documented a voluntary quit from the employment. Mr. Burns did not attempt to return to the employment.

REASONING AND CONCLUSIONS OF LAW:

A discharge is a termination of employment initiated by the employer for such reasons as incompetence, violation of rules, dishonesty, laziness, absenteeism, insubordination, or failure to pass a probationary period. 871 IAC 24.1(113)(c). 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 weight of the evidence indicates that Mr. Burns voluntarily separated from the employment by failing to return to work at the end of a three-day suspension. Mr. Burns voluntarily quit the employment in response to being reprimanded and suspended for failure to perform his duties as assigned. The employer reasonably concluded that Mr. Burns had voluntarily quit when did not return to work or make contact with the employer during the three workdays that followed the three-day suspension.

Iowa Code § 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.

Iowa Admin. Code r. 871-24.25(4), (28) provides:

Voluntary quit without good cause. 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 from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

(28) The claimant left after being reprimanded.

Mr. Burns voluntarily quit the employment without good cause attributable to the employer. Accordingly, Mr. Burns is disqualified for benefits until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The employer's account shall not be charged for benefits.

DECISION:

The Claims Deputy's September 15, 2014, reference 03, decision is affirmed. The claimant voluntarily quit the employment without good cause attributable to the employer. The claimant is disqualified for benefits until he has worked in a been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The employer's account shall not be charged.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

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