

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JOHN KISH
Claimant

BRIDGESTONE AMERICAS TIRE
Employer

APPEAL NO. 20A-UI-04864-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/05/20
Claimant: Appellant (1)

Iowa Code Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

John Kish filed a timely appeal from the May 22, 2020, reference 01, decision that disqualified him for benefits and that relieved the employer's account of liability for benefits, based on the deputy's conclusion that the Mr. Kish voluntarily quit on April 30, 2019 without good cause attributable to the employer. After due notice was issued, a hearing was held on June 23, 2020. Mr. Kish participated. The employer did not provide a telephone number for the appeal hearing and did not participate. The administrative law judge too official notice of the Agency's administrative record of benefits paid to the claimant (DBRO and KPYX).

ISSUE:

Whether the claimant's voluntary quit was for good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: John Kish was employed by Bridgestone America Tire as a full-time Control Technician until April 30, 2019, when he voluntarily quit to retire. Mr. Kish has started his employment with Bridgestone in 2004. Mr. Kish provided the employer with a resignation letter in which he stated his intention to retire from the employment. During the employment, there were times when Mr. Kish felt his supervisor treated him unfairly. However, there was no particular incident toward the end of the employment that triggered his decision to leave the employment.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

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. When a claimant left employment to retire when the claimant could have continued working, the separation is presumed to be a voluntary quit without good cause attributable to the employer. See Iowa Administrative Code rule 871-24.25(24).

The evidence in the record establishes that Mr. Kish voluntarily quit on April 30, 2019 to retire. His quit from the employment was without good cause attributable to the employer. Accordingly, Mr. Kish is disqualified for benefits until he has worked in and been paid wages for insured work equal to 10 times his weekly benefit amount. Mr. Kish must meet all other eligibility requirements. The employer's account shall not be charged for benefits.

DECISION:

The May 22, 2020, reference 01, decision is affirmed. The claimant voluntarily quit the employment on April 30, 2019 without good cause attributable to the employer. The claimant is disqualified for benefits until he has worked in and been paid wages for insured work equal to 10 times his weekly benefit amount. The claimant must meet all other eligibility requirements. The employer's account shall not be charged.

Note to Claimant: This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. *This decision denies benefits. If this decision becomes final or if you are not eligible for Pandemic Unemployment Assistance (PUA), you may have an overpayment of benefits that you will be required to repay.* Individuals who do not qualify for regular unemployment insurance benefits due to disqualifying separations, but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.



James E. Timberland
Administrative Law Judge

June 30, 2020 _____
Decision Dated and Mailed

jet/scn