

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**STEPHEN L ROCKWOOD**  
Claimant

**APPEAL NO. 14A-UI-13477-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WEITZ INDUSTRIAL LLC**  
Employer

**OC: 12/07/14**  
**Claimant: Appellant (1)**

Section 96.5(1) – Voluntary Quit

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from a representative's decision dated December 23, 2014 (reference 01) which denied unemployment insurance benefits, finding that the claimant had voluntarily quit work for personal reasons. After due notice was provided, a telephone hearing was held on January 27, 2015. Claimant participated. The employer participated by Mr. Timothy Ryan, Labor Relations Representative, and Mr. Mike Porter, Superintendent.

**ISSUE:**

At issue is whether the claimant left employment with good cause attributable to the employer.

**FINDINGS OF FACT:**

Having considered all of the evidence in the record, the administrative law judge finds: Stephen L. Rockwood was employed by Weitz Industrial LLC as a full-time instruction carpenter from May 22, 2014 until on or about September 17, 2014 when he voluntarily left employment to return home for personal reasons. Mr. Rockwood was employed on a full-time basis and was paid by the hour. His last immediate supervisor was Mr. Mike Porter.

On or about September 17, 2014 the claimant went to the job superintendent, Mike Porter, to request permission to be off work for two to three weeks to return home to repair storm damage. Permission to be gone for the two to three weeks was denied by Mr. Porter and the claimant was informed that if he quit his employment, he would not be eligible to be rehired by the company for a minimum of one year.

The superintendent then told the claimant of a provision in company policy that allows an employee to leave work for up to a maximum of 90 days and allows the employee to reapply for employment with the company at the conclusion of the 90 days, without the one year waiting period that is applied to employees who leave the company for reasons other than hardship. Work continued to be available to Mr. Rockwood at that time; however, the claimant chose to leave his employment with the company to return home and repair his roof that had been damaged in a storm.

Mr. Rockwood left his employment with Weitz Industrial LLC at that time and returned home.

On December 27, 2014 after more than 90 days had expired, Mr. Rockwood contacted the employer to be re-employed. Because more than 90 days had elapsed and the employer's agreement to rehire the claimant was contingent upon employer needs, Mr. Rockwood was informed that no jobs were available at that time. Due to seasonal and business conditions, employees were being laid off by the company at the time that Mr. Rockwood sought to be rehired. The company's policy reads that employees who leave the company for hardship reasons are eligible to be re-employed, providing that they make application for re-employment within 90 days and the employer has a need for workers at that time.

It is the claimant's position that he did not understand that possible re-employment in the future was contingent upon the employer's needs.

#### **REASONING AND CONCLUSIONS OF LAW:**

The question before the administrative law judge is whether the evidence in the record establishes that Mr. Rockwood left his employment for good cause that was attributable to the employer. It does not.

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.

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. 871 IAC 24.25. A voluntary quit also 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 Board, 492 N.W. 2d 438 (Iowa Ct. App. 1992). The claimant demonstrated his intent to quit and acted to carry that out after the employer was unwilling to grant the claimant permission to be gone for two to three weeks for personal reasons.

The evidence in the record is clear that Mr. Rockwood was not granted permission by the employer to be gone from work for an extended period without quitting his job. Mr. Rockwood was informed of two alternatives. He was informed that if he quit his job, he would not be eligible for rehire for a minimum of a one-year period. The job superintendent also informed the claimant that the requirement that he wait at least one year before reapplying for employment could be waived if Mr. Rockwood left employment under a "hardship" provision that would allow him to reapply for re-employment if he left work for a hardship and reapplied within 90 days. The evidence does not establish that neither the claimant nor the employer considered the claimant's time from work to be a leave of absence but instead a quitting of employment that might allow a one-year waiting period to be waived.

Implicit in the requirement that an employee make application again for employment, is the requirement that the employer have a need for workers when re-application for employment is made. The evidence in the record establishes that Mr. Rockwood waited more than 90 days before reapplying for work and that although the claimant was "eligible" to be rehired; no job vacancies existed when he reapplied to be rehired with the company on or about December 27, 2014.

While Mr. Rockwood had a good cause personal reason for leaving his employment, his reasons were nevertheless personal in nature and not attributable to the employer. The claimant knew or should have known that once he quit his employment with the company, any future re-employment by the company was contingent upon the employer's needs at the time that the claimant was reapplying to be rehired.

Because the claimant's leaving was for a good cause that was not attributable to the employer the claimant is disqualified from the receipt of unemployment insurance benefits until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, and he is otherwise eligible.

**DECISION:**

The representative's decision dated December 23, 2014 (reference 01) is affirmed. The claimant left employment without good cause attributable to the employer. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, and he is otherwise eligible.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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