

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JESSE L WALKER

Claimant

THE AMERICAN BOTTLING COMPANY

Employer

APPEAL NO. 21A-UI-17460-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 05/16/21

Claimant: Appellant (1)

Iowa Code Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

The claimant, Jesse Walker, filed a timely appeal from the July 30, 2021, reference 01, decision that disqualified him for benefits and that held the employer's account would not be charged for benefits, based on the deputy's conclusion that the claimant voluntarily quit on May 16, 2021 without good cause attributable to the employer. After due notice was issued, a hearing was held on September 30, 2021. Claimant participated. Patrick Green, Human Resources Manager, represented the employer.

ISSUE:

Whether the claimant voluntary quit without good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed by The American Bottling Company as a merchandizer. The claimant began the employment in November 2019 as a full-time merchandizer. The full-time work involved working five to six days per week. The claimant would start work at 7:00 a.m. or 7:30 a.m. and complete his work day sometime between 5:30 p.m. and 7:00 p.m. The claimant continued as a full-time employee until the week of May 12, 2021, when he unilaterally changed his availability to part-time only and on days the employer did not offer part-time work. The claimant worked part of the week and assumed he was off for the remainder. Based on the claimant's unilateral change that made him unavailable for full-time employment, the employer did not schedule the claimant for additional work. While the claimant asserts he was willing to continue in full-time employment, the weight of the evidence indicates otherwise.

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 871 IAC 24.25.

The evidence in the record indicates the claimant voluntarily quit the full-time employment without good cause attributable to the employer by unilaterally changing his availability to part-time hours only. The employer was not obligated to acquiesce in the substantial change the claimant made to the conditions of the employment and reasonably interpreted the claimant's availability statement and actions as a voluntary quit from the full-time employment. While the claimant asserts he was willing to continue in full-time employment, the weight of the evidence indicates otherwise. 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 for benefits.

DECISION:

The July 30, 2021, reference 01, decision is affirmed. The claimant voluntarily quit the full-time employment 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.



James E. Timberland
Administrative Law Judge

November 29, 2021
Decision Dated and Mailed

jet/kmj

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. Individuals who do not qualify for regular unemployment insurance benefits, but who are 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>.