

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TROY B HANNON
Claimant

APPEAL NO. 09A-UI-09202-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

RED ROBIN INTERNATIONAL INC
Employer

OC: 05/03/09
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated June 23, 2009, reference 02, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on July 14, 2009. Employer participated by Juan Salinas, general manager. Claimant failed to respond to the hearing notice and did not participate. The record consists of the testimony of Juan Salinas.

ISSUE:

Whether the claimant voluntarily left for good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witness and having considered all of the evidence in the record, makes the following findings of fact:

The claimant was hired as a server at the Red Robin restaurant in West Des Moines, Iowa. The claimant gave his employer a two-week notice that he intended to quit his job. The claimant did not work the additional two weeks, however. He was scheduled to work on July 11, 2008, July 12, 2008, and July 13, 2008. These three days would have finished out the two weeks of notice. The claimant did not show up for work on these three days and did not call his employer to inform the employer that he would not be working his scheduled shifts. The employer called the claimant and left him a message but the claimant never returned his call.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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.

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 evidence in this case established that the claimant intended to sever the employment relationship and did so by first giving notice to his employer and then failing to come to work for his final three scheduled days. The claimant did not wish to remain as an employee. He did not participate in the hearing and there is no evidence to show that he quit for good cause attributable to the employer. Accordingly, benefits are denied.

DECISION:

The decision of the representative dated June 23, 2009, reference 02, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/pjs