

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHARLES D CARTER
Claimant

APPEAL NO. 11A-UI-07403-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WELLS FARGO BANK NA
Employer

OC: 04/24/11
Claimant: Respondent (1)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Charles Carter filed a timely appeal from the May 24, 2011, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on July 5, 2011. Mr. Carter did not respond to the hearing notice instructions to provide a telephone number for the hearing and did not participate. Loring Lincoln of Barnett Associates represented the employer and presented additional testimony through Theotto Lillard.

ISSUE:

Whether Mr. Carter'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: Charles Carter was employed by Wells Fargo Bank North America as a full-time collector from August 2010 until April 22, 2011, when he voluntarily quit to relocate to the Davenport area so that he could be closer to his family. On April 12, Mr. Carter submitted a written resignation by email to his immediate supervisor, Collections Supervisor Theotto Lillard. Mr. Carter told the employer in the written message and verbally that that he wanted to move home to be closer to his mother, who was ill, and closer to his family. Mr. Carter told the employer and wrote in his message that he would be leaving the employment at the end of April. Mr. Carter later told the employer that he wanted his last day moved up to April 22, 2011. The employer continued to have work available to Mr. Carter. The employer was willing to provide Mr. Carter with assistance in securing a new position in the Davenport area, but there was no position there that correlated to the collector position Mr. Carter had held up to that point in Des Moines. In other words, there was no guarantee of a position in Davenport, or otherwise.

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.

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.

When a person voluntarily quits employment to relocate to a new locality, the quit is presumed to be without good cause attributable to the employer. See 871 IAC 24.25(2). When a person voluntarily leaves employment due to compelling personal reasons, but the absence from the employment exceeds ten working days, the leaving is presumed to be a voluntary quit without good cause attributable to the employer. See 871 IAC 24.25(20).

The weight of the evidence establishes that Mr. Carter voluntarily quit his full-time employment with Wells Fargo in Des Moines on April 22, 2011, so that he could relocate to Davenport to be closer to his mother, who was ill, and to his family. While Mr. Carter may have had compelling personal reasons for leaving the employment, his voluntary quit was not for good cause attributable to the employer. Mr. Carter 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 paid to Mr. Carter.

DECISION:

The Agency representative's May 24, 2011, reference 01, 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 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.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

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