

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CHRISTOPHER S NOYES**  
Claimant

**APPEAL NO. 13A-UI-07114-LT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**PACKERS SANITATION SVCS INC**  
Employer

**OC: 05/12/13**  
**Claimant: Appellant (1)**

Iowa Code § 96.5(2)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the June 7, 2013, (reference 05) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on July 22, 2013. Claimant participated. Claimant's proposed witness Jason Brown was not available and Jackie Marard opted not to participate. Employer participated through site manager Jose Nunez Martinez. The administrative law judge took notice of the administrative record.

**ISSUE:**

Did claimant voluntarily leave the employment with good cause attributable to employer or did employer discharge claimant for reasons related to job misconduct sufficient to warrant a denial of benefits?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as a laborer from April 4, 2013 and was separated from employment on April 10, 2013. After complaining about taking orders about how to perform his job he went to break with others and returned his equipment to floor manager/Martinez's subordinate Mario Mejia Garcia. Martinez tried to talk to him at the front door before he left but was unable to do so. Continued work was available. Claimant did not mention issues with Jackie Marard as a contributing factor for the separation in his fact-finding interview.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was without good cause attributable to the employer.

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.

871 IAC 24.25(22), (27) provides:

Voluntary quit without good cause. 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. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(22) The claimant left because of a personality conflict with the supervisor.

(27) The claimant left rather than perform the assigned work as instructed.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). Martinez's testimony is more credible than claimant's because claimant relied heavily on references to Marard as a contributing reason for the separation at hearing but did not mention her in the fact-finding interview statement. Generally, when an individual mistakenly believes they are discharged from employment, but was not told so by the employer, and they discontinue reporting for work, the separation is considered a quit without good cause attributable to the employer. Since Martinez did not tell claimant he was fired and claimant did not follow up with human resources and his assumption of having been fired was erroneous, his walking out after complaining about job instructions was an abandonment of the job. Benefits are denied.

**DECISION:**

The June 7, 2013 (reference 05) decision is affirmed. Claimant voluntarily left the employment without good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

dml/pjs