

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DEAN A O'CONNOR
Claimant

APPEAL NO. 09A-UI-09212-E2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

ERLBACHER BROS INC
Employer

OC: 05/17/09
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 19, 2009, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on July 20, 2009. Employer participated by Dean Erlbacher. Claimant failed to respond to the hearing notice and did not participate.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on May 1, 2009. The claimant was scheduled to work the next week but never showed up at work. The claimant in his appeal letter indicated dissatisfaction with the employer and how his pay was determined. The employer stated that he was not made aware of this dissatisfaction by the claimant until the fact-finding interview.

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 claimant offered no credible evidence to meet his burden of proof that his quit was with good cause attributable to his employer.

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship on May 1, 2009.

DECISION:

The decision of the representative dated June 19, 2009, reference 01, 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.

James Elliott
Administrative Law Judge

Decision Dated and Mailed

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