

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHARLES D CARTER
Claimant

APPEAL NO. 17A-UI-04328-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CALDWELL AND HARTUNG INC
Employer

OC: 03/26/17
Claimant: Appellant (1)

Iowa Code Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Charles Carter filed a timely appeal from the April 18, 2017, reference 01, decision that disqualified him for benefits and that relieved the employer of liability for benefits, based on the claims deputy's conclusion that Mr. Carter voluntarily quit on February 20, 2017 without good cause attributable to the employer. After due notice was issued, a hearing was held on May 11, 2017. Mr. Carter participated. The employer did not register a telephone number for the hearing and did not participate. Exhibit A was received into evidence.

ISSUE:

Whether the claimant'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 Caldwell and Hartung, Inc. as a full-time over-the-road commercial truck driver for approximately four years until February 20, 2017, when he voluntarily quit. A month before he separated from the employment, Mr. Carter had given the employer a two-week notice that he would be quitting. The employer persuaded Mr. Carter to stay beyond his two-week notice period by assigning him to local route work. Mr. Carter wanted to leave the employment because he was tired of commercial truck driving work. Mr. Carter had worked as a commercial truck driver since 1995 and was experiencing "driver burnout." Mr. Carter is a 57 year old man, suffers from arthritis, and has difficulty sleeping at night. A doctor did not advise Mr. Carter to leave the employment. Instead, Mr. Carter wanted to leave the employment before something bad happened as a result of his burnout or health issues. On the morning of February 20, 2017, Mr. Carter was operating the employer's tractor-trailer rig, when he fell asleep at the wheel and the truck ended up on its side. Mr. Carter was returning from a trip to Minneapolis. After the motor vehicle accident, Mr. Carter notified the employer on February 20, 2017 that he would not be returning to the employment. Mr. Carter had not accepted other employment. After Mr. Carter later learned that the employer's insurer had given notice to the employer, subsequent to the February 20 accident and Mr. Carter's separation from the employment that the insurer would no longer cover Mr. Carter's operation of the employer's equipment.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 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.

The weight of the evidence establishes that Mr. Carter voluntarily quit the employment on February 20, 2017 for personal reasons. These personal reasons included a desire for a change of occupation, sleep issues, and arthritis issues. Mr. Carter's health issues did not necessitate his separation from the employment and a doctor had not advised him to quit the employment. Mr. Carter's decision to leave the employment was not for good cause attributable to the employer. For that reason, the voluntary quit disqualifies Mr. Carter for unemployment insurance benefits under Iowa Code section 96.5(1). 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. Mr. Carter must meet all other eligibility requirements. The employer's account shall not be charged.

DECISION:

The April 18, 2017, reference 01, decision is affirmed. The claimant voluntarily quit the employment on February 20, 2017 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. The claimant must meet all other eligibility requirements. The employer's account shall not be charged.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/scn