

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

STEPHEN BROWN
Claimant

APPEAL NO. 13A-UI-00961-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

CITY OF COUNCIL BLUFFS
Employer

**OC: 12/23/12
Claimant: Appellant (5)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed an appeal from the representative's decision dated January 16, 2013, reference 01, which held that the claimant was not eligible for unemployment insurance benefits. After due notice was issued, a hearing was held by telephone conference call on March 19, 2013. The claimant participated personally. The employer participated by Ellen Stageman, a human resources technician. The record consists of the testimony of Ellen Stageman; the testimony of Stephen Brown; Claimant's Exhibits A-D; and Employer's Exhibit 1.

ISSUE:

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

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge makes the following findings of fact:

The claimant worked for the employer, a municipality located in Iowa, as a full-time park maintenance worker 2. He was a full-time employee. He was hired on August 17, 2009. The claimant voluntarily resigned his position on March 30, 2012. The employer accepted the claimant's resignation.

At the time of his resignation, the claimant was on unpaid leave because he had been arrested for DUI on March 17, 2012. The claimant was scheduled to have a pre termination meeting on March 30, 2012. No decision had been made to terminate the claimant. The claimant was not offered resignation in lieu of termination. The claimant decided to resign before the meeting because he did not want a termination on his work record.

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 is not eligible for unemployment insurance benefits. The claimant is the party that initiated the separation in this case. The employer had not made a final decision to terminate the claimant nor had the claimant been told he could resign in lieu of termination. Rather the claimant himself assessed the situation and consulted with a union official, and decided that he would rather resign than go through the termination process. He did not want a termination on his record. Under these circumstances, the administrative law judge concludes that the claimant did not quit with good cause attributable to the employer. He made the decision to quit for personal reasons. Benefits are therefore denied.

DECISION:

The unemployment insurance decision dated January 16, 2013, reference 01, is modified without effect. The claimant is disqualified from receiving benefits based on a voluntary quit without good cause attributable to the employer. 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/css