

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JAMES AVENARIUS**  
Claimant

**APPEAL NO: 09A-UI-10098-BT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WIRELESS EXPRESS LLC**  
Employer

**OC: 02/22/09**  
**Claimant: Appellant (2)**

Iowa Code § 96.5-1 - Voluntary Quit

**STATEMENT OF THE CASE:**

James Avenarius (claimant) appealed an unemployment insurance decision dated July 8, 2009, reference 05, which held that he was not eligible for unemployment insurance benefits because he voluntarily quit his employment with Wireless Express, LLC (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 30, 2009. The claimant participated in the hearing. The employer did not comply with the hearing notice instructions and did not call in to provide a telephone number at which a representative could be contacted, and therefore, did not participate. Based on the evidence, the arguments of the party, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits?

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time assistant manager from March 18, 2009 through June 9, 2009. He voluntarily quit his employment due to detrimental working conditions. The store manager talked negatively about upper management and also talked negatively about the claimant. The claimant found reports or logs where the store manager blamed him for problems the store manager created. There were numerous problems the claimant was asked to solve but was unable to do so since he was not involved in the original problem and was unsure of the tools needed to correct the problem. He was also advised that he would be paid more but that never happened. The store manager told the claimant he needed to be careful or he would be replaced but there was no explanation as to what the store manager was talking about. The claimant quit before he would be blamed for something else that he did not do.

## REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits. He is not qualified to receive unemployment insurance benefits if he voluntarily quit without good cause attributable to the employer. Iowa Code § 96.5-1.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980) and Peck v. Employment Appeal Bd., 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant demonstrated his intent to quit and acted to carry it out by telling the employer he quit. He quit due to intolerable working conditions as a result of working with the store manager. The store manager created problems that he blamed on the claimant and then warned the claimant about upper management, stating the claimant's job was in jeopardy. The employer failed to participate and there is no evidence contradicting the claimant's testimony.

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See 871 IAC 24.26(4). The test is whether a reasonable person would have quit under the circumstances. See Aalbers v. Iowa Department of Job Service, 431 N.W.2d 330 (Iowa 1988) and O'Brien v. Employment Appeal Bd., 494 N.W.2d 660 (1993). Aside from quits based on medical reasons, prior notification of the employer before a resignation for intolerable or detrimental working conditions is not required. See Hy-Vee v. EAB, 710 N.W.2d (Iowa 2005). A reasonable person would quit under like circumstances.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. He has satisfied that burden and benefits are allowed.

## DECISION:

The unemployment insurance decision dated July 8, 2009, reference 05, is reversed. The claimant voluntarily quit his employment with good cause attributable to the employer and is qualified to receive unemployment insurance benefits, provided he is otherwise eligible.

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Susan D. Ackerman  
Administrative Law Judge

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Decision Dated and Mailed

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