

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**TAVARES D MONTGOMERY**  
Claimant

**APPEAL NO. 21A-UI-15770-JT-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**PC NIGHTLIFE LLC**  
Employer

**OC: 05/24/20**  
**Claimant: Respondent (2)**

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Iowa Code Section 96.5(1) – Voluntary Quit

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the July 13, 2021, reference 04, decision that allowed benefits to the claimant, provided the claimant was otherwise eligible, and that held the employer's account could be charged, based on the deputy's conclusion that the claimant was discharged on December 19, 2020 for no disqualifying reason. After due notice was issued, a hearing was held on September 3, 2021. The claimant, Tavares Montgomery, did not provide a telephone number for the hearing and did not participate. Brittany Shelton represented the employer. Exhibits 1, 2 and 3 were received into evidence. The administrative law judge took official notice of the following Agency administrative records: The administrative law judge took official notice of the Agency's administrative record of benefits disbursed to the claimant (DBRO), which record reflects that no benefits were disbursed to the claimant in connection with the May 24, 2020 benefit year.

**ISSUES:**

Whether the claimant was discharged for misconduct in connection with the employment.  
Whether the claimant voluntary quit with good cause attributable to the employer.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant, Tavares Montgomery, was employed by PC Nightlife, L.L.C. as a part-time security worker (bouncer) at Voodoo Lounge. The claimant began the employment on October 27, 2020 and last performed work for the employer on December 18, 2020. The claimant was next scheduled to work on December 19, 2020, but was absent from the shift without notifying the employer. The employer continue to have work for the claimant. The claimant did not return to work and did not make further contact with the employer.

**REASONING AND CONCLUSIONS OF LAW:**

A discharge is a termination of employment initiated by the employer for such reasons as incompetence, violation of rules, dishonesty, laziness, absenteeism, insubordination, or failure to pass a probationary period. Iowa Administrative Code rule 871-24.1(113)(c). A quit is a separation initiated by the employee. Iowa Administrative Code rule 871-24.1(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 Iowa Administrative Code rule 871-24.25.

The evidence in the record establishes a voluntary quit based on the claimant ceasing to report for additional shifts and ceasing contact with the employer after he last worked on December 18, 2020. The employer testified that continuing work was available. The claimant did not present any evidence to rebut that assertion.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

The evidence in the record establishes an voluntary quit without good cause attributable to the employer. The claimant did not participate in the hearing and did not present any evidence to indicate a voluntary quit for a reason that would be deemed good cause attributable to the employer. The evidence establishes instead a voluntary quit for unspecified personal reasons. Accordingly, the claimant is disqualified for benefits until the claimant has worked in and been paid wages for insured work equal to 10 times the claimant's weekly benefit amount. The claimant must meet all other eligibility requirements. The employer's account shall not be charged for benefits.

Because no benefits have been disbursed in connection with the claim, there is no overpayment of benefits to address.

**DECISION:**

The July 13, 2021, reference 04, decision is reversed. The claimant voluntarily quit the employment effective December 19, 2020 without good cause attributable to the employer. The claimant is disqualified for benefits until the claimant has worked in and been paid wages for insured work equal to 10 times the claimant's weekly benefit amount. The claimant must meet all other eligibility requirements. The employer's account shall not be charged.



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James E. Timberland  
Administrative Law Judge

September 13, 2021  
Decision Dated and Mailed

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