

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

EDWARD J WEBSTER

Claimant

APPEAL NO. 11A-UI-07489-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

ASTEC HANDYMAN LLC

Employer

OC: 04/03/11

Claimant: Appellant (2)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated May 31, 2011, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on June 29, 2011. Claimant participated. Sandra Crow was a witness for the claimant. Employer failed to respond to the hearing notice and did not participate. The record consists of the testimony of Edward Webster and the testimony of Sandra Crow.

ISSUE:

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

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The employer provides construction services. The claimant worked as a general laborer. He was a full-time employee. He began his employment in 2007. He was terminated on March 31, 2011.

The incident that led to the claimant's termination involved some storm doors that the claimant helped install for his aunt, Sandra Crow. Ms. Crow is also related to Dave Rindels, who is the owner of the employer. Ms. Crow originally asked Mr. Rindels if he would help her install two storm doors. Mr. Rindels told Ms. Crow that he was "pretty busy" and maybe he could do one door one day and the other door on another day. Ms. Crow was asked how much it would cost and she thought the price was high, especially since she was family.

Ms. Crow needed to have the doors installed and so her son tried to do the job. He was unable to do it. Ms. Crow then called the claimant and asked him if he would help. He did. Mr. Rindels found out about it and accused the claimant of taking money out of his pocket. On March 31, 2011, he handed the claimant his paycheck and told him: "Don't call me, I'll call you." The claimant tried to go to work the following Monday and Mr. Rindels saw him out of the window.

Mr. Rindels turned off the lights and did not come to the door. Ms. Crow also heard that Mr. Rindels was mad about the storm doors and had terminated the claimant.

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.

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 evidence is uncontroverted that it was the employer who severed the employment relationship. The employer got mad because the claimant helped his aunt install two storm doors. The employer thought he had contracted for that job, something Ms. Crow disputed. Mr. Rindels told the claimant: "Don't call me, I'll call you." The claimant reasonably interpreted this as being terminated, particularly when he did try to go to work the following Monday and Mr. Rindels would not come out of the house. There is no evidence the claimant quit. There is also no evidence of misconduct, particularly since the employer did not participate in the hearing. Since the claimant was terminated, he did not voluntarily quit. Benefits are allowed if the claimant is otherwise eligible.

DECISION:

The decision of the representative dated May 31, 2011, reference 01, is reversed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/pjs