

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BRANDON D DUFFIELD
Claimant

APPEAL NO. 11A-UI-16578-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**PRAIRIE MEADOWS RACETRACK &
CASINO**
Employer

**OC: 11/27/11
Claimant: Appellant (1)**

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Brandon Duffield filed a timely appeal from the December 27, 2011, reference 02, decision that allowed benefits for the week ending December 3, 2011, but that denied benefits thereafter. After due notice was issued, a hearing was held on January 30, 2012. Mr. Duffield participated. The employer provided a telephone number for the hearing and named a representative, but the employer representative was not available at the designated number at the time of the hearing.

ISSUES:

Whether Mr. Duffield separated from the employment for reason that disqualifies him for unemployment insurance benefits.

Whether the employer ended the employment during Mr. Duffield's quit notice period.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Brandon Duffield was employed by Prairie Meadows Racetrack & Casino as a full-time security officer. Mr. Duffield started the employment in December 2010. On November 23, 2011, Mr. Duffield provided the employer with written notice that he would be quitting in two weeks. Mr. Duffield planned for his last day of work to be December 6, 2011. Mr. Duffield had been residing in Des Moines in a house owned by his father. When his father sold the house, Mr. Duffield decided he could no longer afford to live in Des Moines. Mr. Duffield decided to relocate to Creston, where his mother and girlfriend resided.

On December 25, the employer ended the employment in response to an alleged unauthorized breath alcohol test Mr. Duffield performed on a patron.

Mr. Duffield established a claim for unemployment insurance benefits that was effective December 27, 2011. Mr. Duffield received benefits only for the week ending December 3, 2011.

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.

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.

When an employee voluntarily quits to relocate to a new locality the quit is presumed to be without good cause attributable to the employer. See 871 IAC 24.25(2). Mr. Duffield's voluntary quit, effective December 6, 2011, was without good cause attributable to the employer. Effective December 6, 2011, Mr. Duffield is disqualified for benefits until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The employer's account shall not be charged for benefits paid to Mr. Duffield for the period on or after December 6, 2011.

Iowa Administrative Code section 871 IAC 24.26(12) provides:

When an employee gives notice of intent to resign at a future date, it is a quit issue on that future date. Should the employer terminate the employee immediately, such employee shall be eligible for benefits for the period between the actual separation and the future quit date given by the claimant.

Mr. Duffield seeks benefits for the week that ended November 26, 2011 as well as for the week that ended December 3, 2011. The problem for Mr. Duffield is that he established a claim for benefits that was effective December 27, 2011, not sooner. Mr. Duffield cannot be deemed eligible for benefits for a period that predates the effective date of his claim for benefits. Mr. Duffield would not be eligible for benefits for the week in which his voluntary quit was to go into effect. That week was the week ending December 10, 2011. Mr. Duffield was eligible for the benefits he received during the benefit week that ended December 3, 2011. But that would be the limit of Mr. Duffield's eligibility for benefits until he requalifies for benefits by earning ten times his weekly benefit amount. The employer's account may be charged for the benefits paid to Mr. Duffield for the week ending December 3, 2011.

DECISION:

The Agency representative's December 27, 2011, reference 02, decision is affirmed. Effective December 6, 2011, the claimant voluntarily quit the employment without good cause attributable to the employer. Effective December 6, 2011, the claimant is disqualified for benefits until he has worked in a been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The employer's account shall not be charged for benefits paid to claimant for the period on or after December 6, 2011. Because the employer ended the employment during the notice period, the claimant is eligible for benefits for the week ending

December 3, 2011. The employer's account may be charged for benefits paid to the claimant for that one week.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

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