

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SCOTT MCLEY
Claimant

APPEAL NO: 13A-UI-09537-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

THE AMERICAN BOTTLING COMPANY
Employer

OC: 07/21/13
Claimant: Appellant (1)

Iowa Code § 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Scott McLey (claimant) appealed an unemployment insurance decision dated August 14, 2013, reference 01, which held that he was not eligible for unemployment insurance benefits because he voluntarily quit his employment with The American Bottling Company (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 September 24, 2013. The claimant/appellant failed to participate in the hearing. The employer participated through Michelle Eggleston, Human Resources Manager and Terry Graves, District Manager.

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 merchandiser from October 8, 2012 through May 24, 2013 when he voluntarily quit. He transferred from Fort Dodge to the Ames location in the beginning of 2013. The claimant's appeal letter states that he quit because he was not getting enough hours. The employer had no complaints about hours and believed the claimant never worked less than 40 hours. The employer was running short with the number of employees and the claimant could have had more hours if he had indicated he wanted more. The employer sent him a text message on May 24, 2013 providing him with the list of stores he was to service that weekend and the claimant responded by questioning if the store list was correct. The employer assured him the list was correct and the store list had some additional stores which would have meant the claimant had to work more hours. The claimant quit without notice after that.

REASONING AND CONCLUSIONS OF LAW:

The issue to be determined is whether the reasons for the claimant's separation from employment qualify him to receive unemployment insurance benefits. The claimant 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 sending the employer a text message on May 24, 2013 stating he quit. He failed to participate in the hearing and there is no evidence establishing the reason why he quit.

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 not satisfied that burden. Benefits are denied.

DECISION:

The unemployment insurance decision dated August 14, 2013, reference 01, is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/pjs