

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

CURTIS A KADLEC

Claimant

APPEAL NO. 18A-UI-06454-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

PALLET COMPANIES INC

Employer

OC: 04/15/18

Claimant: Appellant (4)

Iowa Code Section 96.5(1) – Voluntary Quit
Iowa Code Section 96.5(1)(g) - Requalification

STATEMENT OF THE CASE:

Curtis Kadlec filed a timely appeal from the May 14, 2018, reference 04, decision that disqualified him for benefits and that relieved the employer of liability for benefits, based on the Benefits Bureau deputy's conclusion that Mr. Kadlec voluntarily quit on April 15, 2018 without good cause attributable to the employer. After due notice was issued, a hearing was held on June 28, 2018. Mr. Kadlec participated. Karen Stonebraker of ADP/Equifax represented the employer and presented testimony through David Roseberry. The hearing in this matter was consolidated with the hearing in Appeal Number 18A-UI-05725-JTT. Exhibits 1 through 8 were received into evidence. The administrative law judge took official notice of the following Agency administrative records: DBRO and WAGE-A.

ISSUES:

Whether Mr. Kadlec's voluntary quit was for good cause attributable to the employer.

Whether Mr. Kadlec requalified for unemployment insurance benefits subsequent to his separation from the employer and prior to establishing his claim for unemployment insurance benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Curtis Kadlec was employed by Pallet Companies, Inc. d/b/a Chep Recycled Pallet Solutions, as a full-time laborer. Mr. Kadlec began the employment on January 23, 2017 and worked an overnight shift from 3:00 p.m. on January 23, 2017 to 3:00 a.m. on January 24, 2017. Mr. Kadlec found the work more physically taxing than he expected it to be. The employer had accurately represented the work to Mr. Kadlec prior to Mr. Kadlec commencing the employment. Mr. Kadlec called in an absence for the shift on January 24, 2017 because he was sore from working his first shift. Mr. Kadlec decided not to return to the employment and made no further contact with the employer. Mr. Kadlec has not returned to perform any additional work for the employer since separating from the employer on January 24, 2017.

Subsequent to the one-shift employment with Pallet Companies/Chep Recycled Pallet Solutions, Mr. Kadlec secured additional insured work. Subsequent to his January 24, 2017 separation from the employer, and prior to establishing the original claim for benefits that was effective April 15, 2018, Mr. Kadlec worked for four additional employers. When Mr. Kadlec established his claim for unemployment benefits, Iowa Workforce Development calculated his weekly benefit amount to be \$332.00. Mr. Kadlec earned more than 10 times the weekly benefit amount during the second quarter of 2017 and went on to earned equally substantial wages for additional insured work during the third quarter of 2017, the fourth quarter of 2017, and the first quarter of 2018, all prior to establishing the April 15, 2018 original claim for unemployment insurance benefits.

REASONING AND CONCLUSIONS OF LAW:

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.

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 establishes a voluntary quit without good cause attributable to the employer on January 24, 2017, when Mr. Kadlec decided not to return to the employment because he found it too physically taxing. Because the quit was without good cause attributable to the employer's account shall not be charged. Because the quit without good cause attributable to the employer, the quit disqualified Mr. Kadlec for unemployment insurance benefits until he had worked in and been paid wages for insured work equal to 10 times his weekly benefit amount. Mr. Kadlec would also have to meet all other eligibility requirements.

Iowa Code section 96.5(1)g 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. But the individual shall not be disqualified if the department finds that:

g. The individual left work voluntarily without good cause attributable to the employer under circumstances which did or would disqualify the individual for benefits, except as provided in paragraph "a" of this subsection but, subsequent to the leaving, the individual worked in and was paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

The evidence in the record establishes that Mr. Kadlec met 10-times weekly benefit amount earnings requirement in the second quarter of 2017. Mr. Kadlec requalified for benefits prior to establishing the original claim that was effective April 15, 2018. Mr. Kadlec is eligible for benefits in connection with the April 15, 2018 original claim, provided he meets all other eligibility requirements.

DECISION:

The May 14, 2018, reference 04, decision is modified as follows. The claimant voluntarily quit the employment without good cause attributable to the employer. The quit was effective January 24, 2017, not April 15, 2018. The claimant requalified for benefits prior to establishing the original claim that was effective April 15, 2018. The claimant is eligible for benefits, provided he meets all other eligibility requirements. The employer's account shall not be charged.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/rvs