

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KURT W DRENNER**  
Claimant

**APPEAL NO. 10A-UI-08688-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CUSTOM-PAK INC – LP2**  
Employer

**OC: 05/09/10**  
**Claimant: Appellant (1)**

Iowa Code Section 96.5(1) – Voluntary Quit

**STATEMENT OF THE CASE:**

Kurt Drenner filed a timely appeal from the June 18, 2010, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on August 4, 2010. Mr. Drenner participated. Andrea Lawrence, Human Resources Manager, represented the employer and presented additional testimony through Lonnie Adrian, Group Facilitator. The administrative law judge took official notice of the Agency's record of benefits disbursed to the claimant and received. Exhibit One was received into evidence.

**ISSUE:**

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

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Kurt Drenner was employed by Custom-Pak, Inc., as a full-time machine operator from April 22, 2010 until May 10, 2010, when he voluntarily quit the employment. Mr. Drenner was assigned to the third-shift, 11:00 p.m. to 7:20 a.m., Sunday night through Friday morning. Mr. Drenner last performed work for the employer on Friday, May 7, 2010. On Monday, May 10, 2010, Mr. Drenner telephoned the workplace and spoke with Lonnie Adrian, Group Facilitator. Mr. Drenner told Mr. Adrian, that his wife had left him, that he was a mess now, and that he would not be able to work at Custom-Pak anymore. Mr. Adrian asked Mr. Drenner if Mr. Drenner wanted Mr. Adrian to put him down as a voluntary quit and Mr. Drenner said yes. The telephone call then ended. Mr. Adrian did not cut Mr. Drenner off or end the call abruptly. Mr. Drenner did not return to the employment or make further contact with the employer about returning to the employment. Mr. Drenner is the father of minor children. Though Mr. Drenner's wife had left him, she did not take the children with her. Mr. Drenner's decision not to return to the employment was based in part on his need to care for his minor children. The employer continued to have work available for Mr. Drenner.

## 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. 871 IAC 24.1(113)(c). 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 weight of the evidence in the record establishes that Mr. Drenner voluntarily quit and was not discharged. The administrative law judge notes a number of things that call into question the reliability of Mr. Drenner's testimony when the testimony conflicted with testimony provided by the employer. Mr. Drenner was unable to provide the dates of the employment. Mr. Drenner's conversation with Mr. Adrian on May 10, 2010, occurred at a time when Mr. Drenner was upset, while Mr. Adrian was not upset. Unlike the employer, Mr. Drenner did not document the contact. The administrative law judge notes from the Agency's administrative record (DBRO) that Mr. Drenner told the Agency at the time he filed his claim for benefits that he had quit the employment.

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 a person voluntarily quits employment due to a lack of childcare, or due to family responsibilities or serious family needs, the quit is presumed to be without good cause attributable to the employer. See 871 IAC 24.25(8) and (23). In addition, when a person voluntarily quits for compelling personal reasons, but the absence exceeds ten working days, the quit is presumed to be without good cause attributable the employer. See 871 IAC 24.25(20).

The weight of the evidence indicates that Mr. Drenner voluntarily quit the employment for personal reasons and not for good cause attributable to the employer. Accordingly, Mr. Drenner 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. Drenner.

**DECISION:**

The Agency representative's June 18, 2010, reference 01, decision is affirmed. The claimant voluntarily quit the employment without good cause attributable to the employer. The claimant 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.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

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