

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KELLY TERPSTRA**  
Claimant

**APPEAL NO: 12A-UI-02295-BT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**NEWSPAPER HOLD INC**  
Employer

**OC: 10/09/11**  
**Claimant: Appellant (1)**

Iowa Code § 96.5-1 - Voluntary Quit

**STATEMENT OF THE CASE:**

Kelly Terpstra (claimant) appealed an unemployment insurance decision dated February 28, 2012, reference 01, which held that he was not eligible for unemployment insurance benefits because he voluntarily quit his employment with Newspaper Hold, Inc. (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 March 22, 2012. The claimant participated in the hearing. The employer participated through Martin Cody, Publisher; James Grob, Sports Editor; and Jeff Hutton, Editor. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**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 sports reporter from May 20, 2002 through January 17, 2012. On January 11, 2012, he told Scott Jackson and Sports Editor James Grob that he was quitting and that he was done. Mr. Grob talked him out of it; he told the claimant to take the night off and they could talk about it on the following day. The claimant returned to work on the following day and it does not appear that anything more was said about it.

The claimant's last day of work was January 16, 2012 and he was scheduled to work on January 17, 2012 at approximately 5:00 p.m. The claimant was not at work when Sports Editor James Grob arrived on the following day so Mr. Grob sent the claimant a text message at 5:35 p.m. asking him where he was and where was the district football story. The claimant responded at 5:40 p.m. by texting, "DONE." Mr. Grob was not sure what the claimant meant so sent another text message at 5:41 p.m. and asked, "Where is it? Is it in the email?" At

5:42 p.m., the claimant texted, "I quit. Completely done." He sent another message at 5:45 p.m. which stated, "I did about as shitty as you can do. Fire me, I quit, it's up to you."

Mr. Grob talked to the business manager as he was not aware how to proceed and was advised to send a message to the publisher and get the key back from the claimant. Shortly thereafter, Mr. Grob advised Publisher Martin Cody that the claimant had quit. Mr. Grob was busy working and did not send any messages to the claimant until approximately 1:11 a.m. on January 18, 2012. He sent the text, "Turn your key in to Tracy up front on Wednesday. You are terminated. Thanks for screwing me over. Best if I never see you again."

The claimant returned his key to Mr. Cody on January 18, 2012 around 5:30 p.m. He repeatedly apologized for quitting and stated, "I hate to leave you in a lurch" and "I have to make changes in my life."

### **REASONING AND CONCLUSIONS OF LAW:**

The issue 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 or if the employer discharged him for work-connected misconduct. Iowa Code §§ 96.5-1 and 96.5-2-a.

The claimant contends he was discharged when the sports editor sent him a text message telling him he was terminated and to turn in his key. The facts confirm the sports editor did send that text message but that was after the claimant had sent a text message indicating that he quit.

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 telling the sports editor, "I quit. Completely done." He further stated, "Fire me, I quit, it's up to you."

The claimant testified that he did text that he quit but he planned on reporting to work on the following day. He said his defense is that he was going through an emotional breakdown. There is no way the employer could have known the claimant was not serious when he texted that he quit. The Iowa Court of Appeals considers it a voluntary quit when a claimant gives notice of resignation which is accepted by the employer, even though the claimant subsequently attempts to withdraw the resignation. *Langley v. EAB*, 490 N.W.2d 300 (Iowa App. 1992). The employer relied on the claimant's message, and in response, told him to turn in his key, that he was terminated.

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 February 28, 2012, 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.

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Susan D. Ackerman  
Administrative Law Judge

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Decision Dated and Mailed

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