

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CHARLES B LANDFAIR**  
Claimant

**APPEAL NO. 11A-UI-13699-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CORKERY INDUSTRIES NIC**  
Employer

**OC: 01/09/11  
Claimant: Appellant (1)**

Section 96.5(1) – Voluntary Quit

**STATEMENT OF THE CASE:**

Charles Landfair filed a timely appeal from the October 17, 2011, reference 05, decision that denied benefits. After due notice was issued, a hearing was held on November 8, 2011. Mr. Landfair participated. Almir Pajazetovic represented the employer.

**ISSUE:**

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

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Charles Landfair was employed by Corkery Industries, Inc., as a full-time general production worker from January 2011 and last performed work for the employer on August 26, 2011. Mr. Landfair was arrested and incarcerated on Sunday, August 28, 2011 and remained incarcerated on a burglary charge until he was released from custody on September 12, 2011. On the day of his release, Mr. Landfair went to the workplace and spoke with Almir Pajazetovic, production manager. Mr. Pajazetovic told Mr. Landfair that he was no longer employed and directed him to clean out his locker. The employer had a verbal policy regarding three no-call, no-show absences being deemed a voluntary quit.

**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.

An employee is deemed to have voluntarily quit the employment without good cause attributable to the employer if the employee becomes incarcerated. See 871 IAC 24.25(16).

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.

Pursuant to Administrative Code section 871 IAC 24.25(16), the administrative law judge concludes that Mr. Landfair voluntarily quit the employment without good cause attributable to the employer by becoming incarcerated for a 15-day period from August 28 to September 12, 2011. Mr. Landfair 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. Landfair.

**DECISION:**

The Agency representative's October 17, 2011, reference 05, 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

jet/kjw