

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CHARLES A SPENCER**  
Claimant

**APPEAL NO. 11A-UI-14241-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SPECTRUM RESOURCES**  
Employer

**OC: 09/18/11**  
**Claimant: Appellant (1)**

Iowa Code Section 96.5(2)(a)

**STATEMENT OF THE CASE:**

Charles Spencer filed a timely appeal from the October 21, 2011, reference 02, that denied benefits based on an October 7, 2011 disqualifying separation from the employment. After due notice was issued, a hearing was held November 28, 2011. Mr. Spencer participated. Erica Wiley, Vice President of Operations, represented the employer.

**ISSUE:**

Whether Mr. Spencer separated from the employment for a reason that would disqualify him for unemployment insurance benefits.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The employer is a non-profit social services agency that provides job training services to the unemployed. Charles Spencer was employed by Spectrum Resources as Vice President of Projects and Programs until October 7, 2011, when he voluntarily quit due to pending criminal charges that impaired his ability to perform his duties. In July 2011, Mr. Spencer was charged with Domestic Abuse Assault. Immediately before his separation from the employment, Mr. Spencer was charged with violating a no contact order. The employer had an ongoing relationship with the Fifth Judicial District and Mr. Spencer's pending criminal charges negatively impacted that relationship. Mr. Spencer ended his employment voluntarily and was not discharged from the employment.

**REASONING AND CONCLUSIONS OF LAW:**

Mr. Spencer and Ms. Wiley each provided testimony at the appeal hearing that characterized Mr. Spencer's separation from the employment as a discharge rather than a voluntary quit. That testimony contradicted statements each had made at the time of the fact-finding interview, at which time each clearly indicated that Mr. Wiley had voluntarily quit the employment. In addition, Mr. Spencer's testimony at the appeal hearing contradicted what he had put in his appeal letter. In his appeal letter, dated October 27, 2011, Mr. Spencer wrote: "Hours were cut and was on parttime [sic] hours, then went on personal leave of absence [sic] because of personal problems. Available for work and still assist company in capacities of projects and programs." At the October 20, 2011, fact-finding interview, Mr. Spencer told the Workforce

Development representative that he had resigned his position effective October 7, 2011 due to legal problems he was going through, that he did not want his personal issue to reflect on the employer, that he was not asked by the employer to resign, and that he made the decision on his own accord. At the time of the fact-finding interview, Ms. Wiley told the Workforce Development representative that on October 7, 2011, Mr. Spencer submitted his immediate resignation due to personal issues in his life, that he was not discharged, was not asked to resign, and that he made the decision to leave the employment on his own. The administrative law judge concludes that some of Mr. Spencer's and Ms. Wiley's testimony at the appeal hearing consisted of deliberately false statements intended to mislead the administrative law judge about the nature of the separation.

In light of the contradictory statements the parties have made to Workforce Development, the administrative law judge concludes that the evidence establishes a voluntary quit for personal reasons, not a separation initiated by the employer.

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.

The evidence in the record indicates that Mr. Spencer voluntarily quit the employment without good cause attributable to the employer. Accordingly, Mr. Spencer 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. Spencer.

**DECISION:**

The Agency representative's October 21, 2011, reference 02, 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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