

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

---

**BOBBY L BURLEY**  
Claimant

**TEAM STAFFING SOLUTIONS INC**  
Employer

**APPEAL 14A-UI-12995-GT**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 11/16/14**  
**Claimant: Appellant (1)**

---

Iowa Code § 96.5(1) – Voluntary Quitting

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated December 12, 2014 (reference 02) that held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on January 14, 2015. Claimant participated. Employer participated by Sarah Fiedler, Human Resources Generalist. Employer's Exhibits One through Four were admitted into evidence.

**ISSUE:**

The issue in this matter is whether claimant quit for good cause attributable to employer.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on October 24, 2014. He was assigned to work at Schenker Logistics. Claimant began calling into Schenker Logistics and not attending work during the last week of October 2014. Claimant later called in on November 5, 2014 and refused to go back to his current job assignment because the work was too strenuous.

Employer did not hear from claimant from November 5, 2014 through November 25, 2014. Claimant contacted employer on November 25, 2014 and explained that he was ready to go back to work. Employer believed that claimant had quit work on November 5, 2014 and they had accepted his resignation at that time. Claimant had gone to the University of Iowa Hospital and obtained a note excusing him from work beginning on November 3, 2014 through November 25, 2014. The note was dated November 25, 2014. Employer was not notified of this doctor's note prior to that date.

**REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because his work assignment was too strenuous.

Iowa Code § 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.

Iowa Admin. Code r. 871-24.25(23), (27), (37) provides:

Voluntary quit without good cause. 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 from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code § 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code § 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(23) The claimant left voluntarily due to family responsibilities or serious family needs.

(27) The claimant left rather than perform the assigned work as instructed.

(37) The claimant will be considered to have left employment voluntarily when such claimant gave the employer notice of an intention to resign and the employer accepted such resignation. This rule shall also apply to the claimant who was employed by an educational institution who has declined or refused to accept a new contract or reasonable assurance of work for a successive academic term or year and the offer of work were within the purview of the individual's training and experience.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980).

Claimant's resignation from employment was not attributable to the employer. Claimant did not like the work he was asked to do, and he was dealing with family and other personal issues during that time.

**DECISION:**

The decision of the representative dated December 12, 2014 (reference 02) is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

---

Duane L. Golden  
Administrative Law Judge

---

Decision Dated and Mailed

dlg/can