

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MATTHEW WAIDZULIS

Claimant

APPEAL NO. 08A-UI-01497-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

RIVERSIDE STAFFING SERVICES

Employer

**OC: 01-06-08 R: 04
Claimant: Respondent (2)**

Section 96.5-1 - Voluntary Leaving

STATEMENT OF THE CASE:

The employer filed a timely appeal from the February 1, 2008, reference 01, decision that allowed benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on February 27, 2008. The claimant did not respond to the hearing notice and did not participate in the hearing or request a postponement of the hearing as required by the hearing notice. Karrie Minch, Senior Staffing Consultant, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the employer discharged the claimant for work-connected misconduct and whether the claimant sought reassignment from the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time general laborer for Riverside Staffing Services from May 23, 2007 to May 29, 2007. The claimant was last assigned at Group O from May 23, 2007, to May 29, 2007. The assignment ended after the claimant was a no-call, no-show May 31, 2007. After the assignment ended, the claimant contacted the employer June 1, 2007, to ask where he should pick up his check and told the employer he was a no-call, no-show because he returned to his old job.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment without good cause attributable to 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.

871 IAC 24.25(3) 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 section 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 section 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:

(3) The claimant left to seek other employment but did not secure employment.

The claimant voluntarily quit his job by failing to call or show up for work May 31, 2007. On June 1, 2007, the claimant called to inquire about where to pick up his check and told the employer he was a voluntary quit because he returned to his old job. The claimant did not participate in the hearing to testify about whether he actually performed work in his new job and the administrative file does not show any wages earned with another employer at that time. Consequently, the administrative law judge must conclude the claimant voluntarily left his job without good cause attributable to the employer

DECISION:

The February 1, 2008, reference 01, decision is reversed. The claimant's separation was not attributable to the employer. Benefits are withheld until such time as the claimant works in and has been paid for wages equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/kjw