

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROBERT JOHNSON
Claimant

APPEAL NO. 07A-UI-10818-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ACTION WAREHOUSE CO LTD
Employer

**OC: 10/28/07 R: 12
Claimant: Appellant (1)**

Iowa Code section 96.5(1)(c) – Voluntary Quit to Care for a Family Member

STATEMENT OF THE CASE:

Robert Johnson filed a timely appeal from the November 15, 2007, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on December 10, 2007. Mr. Johnson participated. Kent Denning, Personnel Director, represented the employer.

ISSUE:

Whether the claimant's voluntary quit was for good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Robert Johnson was employed by Action Warehouse Company as a full-time mounting department employee. Mr. Johnson last appeared and worked for the employer on October 25, 2007. Mr. Johnson did not return to the employment after October 25, 2007. Mr. Johnson's grandmother had passed away in Indiana on October 22, 2007. Mr. Johnson traveled to Indiana for his grandmother's funeral. Once Mr. Johnson arrived in Indiana, he learned that his mother had serious medical issues that would prevent her from being able to care for herself and that would prompt her placement in a nursing home unless someone was available to care for her. Mr. Johnson's mother suffers from epilepsy. Mr. Johnson's mother had also lost the use of her legs. Mr. Johnson decided to stay in Indiana and care for his mother. A week after his last day of work at Action Warehouse, Mr. Johnson notified the employer he would not be returning to Iowa or to the employment, because he needed to care for his mother. The employer continued to have work available for Mr. Johnson and waited an additional period before filling Mr. Johnson's position.

Though Mr. Johnson's mother's condition has improved somewhat, she still requires assistance throughout the day. Mr. Johnson has not sought full-time employment in Indiana, but has instead looked for part-time employment that would allow him to look after his mother.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5-1-c 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. But the individual shall not be disqualified if the department finds that:

c. The individual left employment for the necessary and sole purpose of taking care of a member of the individual's immediate family who was then injured or ill, and if after said member of the family sufficiently recovered, the individual immediately returned to and offered the individual's services to the individual's employer, provided, however, that during such period the individual did not accept any other employment.

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. Johnson left the employment for compelling personal reasons, but not for good cause attributable to the employer. Mr. Johnson left to attend to his mother's medical needs. Mr. Johnson's mother's medical needs have not improved sufficiently to make it possible for Mr. Johnson to return to Iowa or return to the employment. Mr. Johnson has not in fact returned to Iowa or returned to the employer to offer his services.

The evidence in the record persuades the administrative law judge that Mr. Johnson voluntarily quit the employment without good cause attributable to the employer. Accordingly, Mr. Johnson 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. Johnson.

DECISION:

The Agency representatives November 15, 2007, reference 01, 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.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/kjw