

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TERRY G ROSE

Claimant

APPEAL NO. 07A-UI-07512-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

EMPLOYER'S SERVICE BUREAU INC

Employer

**OC: 07/01/07 R: 04
Claimant: Appellant (1)**

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The claimant, Terry Rose, filed an appeal from a decision dated July 24, 2007, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on August 21, 2007. The claimant participated on his own behalf. The employer, Employer's Service Bureau (ESB), participated by Vice President John Rausenberger; Richard Rausenberger; Assistant Coordinator Ben Reedy; and Third Shift Coordinator Keith Liles .

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

Terry Rose was employed by ESB from September 23, 2003 until June 26, 2007. At the time of separation, he was a full-time laborer on the third shift. The night of June 26, 2007, he appeared for work and Third Shift Coordinator Keith Liles assigned him to work on the "dry side," "doing jugs." The claimant refused to do the work because he felt he as not able to do it properly. He then told Mr. Liles he was quitting, turned in his pass, and left.

REASONING AND CONCLUSIONS OF LAW:

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(27) 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:

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

The claimant chose not to do the work he was assigned and left the facility without doing any work at all that evening. His opinion that he could not do the job assigned has not been borne out by the employer. He quit rather than continue working. Under the provisions of the above Administrative Code section, this is a voluntary quit without good cause attributable to the employer. The claimant is disqualified.

DECISION:

The representative's decision of July 24, 2007, reference 01, is affirmed. Terry Rose is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/kjw