IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS

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

LEONARD LAWSON
Claimant

TEAM STAFFING SOLUTIONS INC
Employer

APPEAL NO. 12A-UI-01475-VST

ADMINISTRATIVE LAW JUDGE DECISION

OC: 01/08/12
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed an appeal from a decision of a representative dated February 10, 2012, reference 01, which held that the claimant was not eligible to receive unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on March 21, 2012. Claimant participated. The employer participated by Sarah Fiedler, claims administrator. The record consists of the testimony of Leonard Lawson and the testimony of Sarah Fiedler. Melissa Abraham served as French interpreter for the claimant.

ISSUE:

Did the claimant voluntarily quit his job for a good reason caused by the employer?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The employer is a temporary staffing agency. The claimant accepted an assignment on June 22, 2010, to work at GPC in Muscatine, Iowa. The claimant was a general laborer. His last day of work was December 24, 2011.

The claimant was scheduled to work on December 25, 2011. He was a no call, no show for that day. GPC contacted the employer to ask why the claimant did not come to work on December 26, 2011. Charity Stones, who is the account manager for GPC, called the claimant. He said that he did not want to work for GPC any longer. The reason was that the GPC supervisor had called him "pokey." He thought "pokey" meant that the supervisor was calling him gay. This offended the claimant.

Ms. Stones explained to the claimant that "pokey" meant slow as in a slow worker. She told the claimant that he could return to work at GPC and that he would be given an explanation and an apology because the supervisor did not realize that the claimant did not understand the word "pokey." The claimant refused to return to work for GPC and said that he might spend some time traveling in Africa. He is originally from Africa and his first language is French.

REASONING AND CONCLUSIONS OF LAW:

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.

A quit is a separation initiated by the employee. 871 IAC 24.1(113)(b). 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 this case established that the claimant initiated the separation of employment. He was a no call, no show on December 25, 2011. When asked on December 26, 2011, why he did not work on December 25, 2011, he said that he did not want to work for a supervisor who called him "pokey." The claimant believed that the word "pokey" meant that he was being called a gay man, which was offensive to him. It is not entirely clear when the supervisor called the claimant "pokey" but likely this took place on or about December 24, 2011. The claimant said that he was being treated like he was gay, but when asked whether there was anything other than the use of the word "pokey", he said no.

It is indeed unfortunate that the claimant misunderstood a common English word that simply means slow. There was no testimony that there was a pattern of behavior by anyone at GPC or from the employer that indicated the claimant was being treated differently than other employees. The claimant was offered the opportunity to return to work with a full explanation and apology. He chose to refuse this offer and therefore he elected to sever the employment relationship. A onetime use of an innocuous word does not make the workplace intolerable or detrimental. There is no evidence of good cause attributable to the employer for the claimant's decision to quit his job. Benefits are denied.

DECISION:

The decision of the representative dated February 10, 2012, reference 01, 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.

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Vicki L. Seeck
Administrative Law Judge

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Decision Dated and Mailed

vls/pjs