

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JAMES R WILMOT

Claimant

TENNYSON ENTERPRISES INC

Employer

APPEAL NO: 09O-UI-08303-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 02/01//09

Claimant: APPELLANT (1)

Section 96.5-1 – Voluntary Quit
871 IAC 24.25(37) – Resignation

STATEMENT OF THE CASE:

The claimant appealed a department decision dated March 25, 2009, reference 01, that held he voluntarily quit without good cause attributable to his employer on January 9, 2009, and benefits are denied. A telephone hearing was held on June 25, 2009. The claimant participated. Stacy Thomson, Assistant Manager, participated for the employer.

ISSUE:

Whether the claimant voluntarily quit without good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge having heard the testimony of the witnesses, and having considered the evidence in the record, finds: The claimant worked for the employer as a part-time server from April 16, 2007 to January 6, 2009. The claimant received an employer warning in December 2008 about failing to report for scheduled work.

The claimant failed to call-in or report for scheduled work on January 7 and 8, 2009. When the claimant went in to receive his paycheck on January 11, he signed an employer Notice of Termination/Resignation form that he was quitting without notice. The employer accepted the resignation and the claimant left work that day.

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(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 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:

(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 was within the purview of the individual's training and experience.

The administrative law judge concludes the claimant voluntarily quit without good cause attributable to his employer due to resignation for personal reasons.

The claimant knew his employment status was in jeopardy do to a history of failing to call-in and report for scheduled work. When the claimant went in to get his paycheck on January 11 after failing to call-in and report for work for two previous days, he chose to resign though the employer did not ask him to do so.

DECISION:

The unemployment insurance decision dated March 25, 2009, reference 01, is affirmed. The claimant voluntarily quit without good cause due to his resignation on January 11, 2009. Benefits are denied until the claimant requalifies by working in and being paid wages for insured work equal to ten times his weekly benefit amount, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/css