

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JAREMIE R JONES

Claimant

APPEAL NO. 08A-UI-03669-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MANPOWER INC OF CEDAR RAPIDS

Employer

**OC: 03/02/08 R: 02
Claimant: Appellant (1)**

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Jeremie Jones filed a timely appeal from the April 7, 2008, reference 02, decision that denied benefits in connection with a February 25, 2008 separation from a temporary employment assignment. After due notice was issued, a hearing was held on April 30, 2008. Mr. Jones participated and presented additional testimony through Brent Rolland, Aspen Hills Plant Manager. Debbie Chamberlin, Risk Control Manager, represented Manpower Inc. of Cedar Rapids.

ISSUE:

Whether the claimant's February 25, 2008, voluntary separation from a temporary employment assignment disqualifies him for unemployment insurance benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Jaremie Jones commenced his employment relationship with Manpower Inc. of Cedar Rapids on September 4, 2007. Toward the end of 2007, Mr. Jones had worked an assignment at Aspen Hills in Garner, Iowa. Mr. Jones resided in Mason City at the time. On February 22, 2008, Mr. Jones commenced a new full-time temporary employment assignment at Aspen Hills. Mr. Jones did not report to the assignment after February 22 and did not complete the temporary employment assignment. On February 25, Mr. Jones notified Manpower Inc. of Cedar Rapids that he had lost his means of transportation to the Aspen Hills assignment and, therefore, would no longer be able to report to the assignment. Mr. Jones has been catching a ride with another person who performed work at Aspen Hills. That person had moved to Clear Lake and was no longer able to provide a ride to Mr. Jones. Aspen Hills continued to have work for Mr. Jones to perform, provided he could find transportation to the assignment. Manpower continued to be willing to have Mr. Jones work at the Aspen Hills assignment.

On February 26, the Manpower branch manager contacted Mr. Jones for the purpose of offering Mr. Jones a new assignment in Mason City. Mr. Jones declined the assignment because he lacked transportation to the assignment and did not want to walk to and/or from the assignment in the cold. Mr. Jones told the Manpower branch manager that he intended to rely upon unemployment insurance benefits rather than accept a new assignment.

Mr. Jones next had contact with Manpower on February 28 for the purpose of collecting his check.

On March 17, Mr. Jones accepted a new temporary employment assignment at Pioneer Hybrids International. Mr. Jones was still in that assignment at the time of the unemployment insurance hearing on April 30, 2008.

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.

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.

A person who voluntarily quits employment because of a lack of transportation is presumed to have quit without good cause attributable to the employer, unless the employer had agreed to provide transportation. See 871 IAC 24.25(1). A person who voluntarily quits employment because of the commuting distance is presumed to have quit without good cause attributable to the employer, provided the person knew the commuting distance at the start of the employment. See 871 IAC 24.25(30).

The evidence in the record indicates a voluntary quit without good cause attributable to the employer. The evidence indicates that Mr. Jones voluntarily quit the temporary employment assignment because he lacked transportation to the assignment. The employer had not agreed to provide transportation to the assignment. The evidence further indicates that Mr. Jones was aware of the commuting distance at the time he accepted the employment assignment. The administrative law judge concludes that Mr. Jones' voluntary quit of the assignment was without good cause attributable to the employer. Accordingly, Mr. Jones 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.

Iowa Code section 96.4-3 provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

871 IAC 24.22(2) provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and

actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

When a person has lost his means of transportation to the area of his usual employment, the person will not meet the availability requirements of the law. See 871 IAC 24.23(4). Here, Mr. Jones not only lacked transportation to the Aspen Hills assignment in Garner, Mr. Jones also lacked appropriate transportation to other available assignments in Mason City.

Where a person unduly limits his availability because he is not willing to work during the hours in which suitable work is available, the person will not meet the availability requirements of the law. See 871 IAC 24.23(16). The evidence indicates that Mr. Jones' hours of availability were impacted by his lack of transportation and his unwillingness to walk home in the cold when alternative transportation during hours when public transportation was not available.

Mr. Jones did not meet the availability requirements of Iowa Code section 96.4(3) effective February 25, 2008 and continued to not meet those requirements until he started the new assignment on March 17, 2008. Once Mr. Jones started the new assignment, he no longer met the availability requirements, because he was working to such an extent that he was not available for other work. See 871 IAC 24.23(23).

DECISION:

The Agency representatives April 7, 2008, reference 02, decision is affirmed. The claimant voluntarily quit the temporary employment assignment on February 25, 2008 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 claimant did not meet the availability requirement of Iowa Code section 96.4(3) and was ineligible for benefits effective February 24, 2008.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/kjw