

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

CORY J GRIMM
3300 SUNSET LN
GALESBURG IL 61401

CORPORATE GRAPHIC COMMERCIALS
1750 NORTHWAY DR
NORTH MANKATO MN 56003

Appeal Number: 04A-UI-06239-RT
OC: 11-30-03 R: 02
Claimant: Appellant (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant, Cory J. Grimm, filed a timely appeal from an unemployment insurance decision dated May 28, 2004, reference 02, denying unemployment insurance benefits to him. After due notice was issued, a telephone hearing was held on June 29, 2004 with the claimant participating. Sara Rundle, Human Resources Manager, and Dan Kvasnicka, Vice President for Operations, participated in the hearing for the employer, Corporate Graphic Commercials. The administrative law judge takes official notice of Iowa Workforce Development Department unemployment insurance records for the claimant.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: The claimant was employed by the employer as a full-time electronic pre-press from January 26, 2004 until he voluntarily quit on May 5, 2004. When the claimant was first hired, he was informed that the position was temporary but gave no ending date or closing date and the employment was open ended. The claimant was informed that the position could become permanent or it could end in August 2004. Throughout his employment, the claimant was never told anything to the contrary. Because of the potential temporary nature of the job, the claimant voluntarily quit to seek other more permanent jobs. Further, the claimant quit to accompany his wife to Galesburg, Illinois, where she had accepted a position. The claimant had recently married in November of 2003 and his wife had obtained a position in Galesburg, Illinois, which she accepted on May 18, 2004 and started June 1, 2004. The claimant quit on May 5, 2004 by sending an e-mail to the employer so indicating his quit and not showing up for work thereafter. If the claimant had not quit, work remained available for him with the employer, full-time, with no end date in view at that time. The claimant did express some concerns to the employer about the temporary nature of his job but expressed no other concerns about his working conditions and never specifically indicated or announced an intention to quit for any reason including the temporary nature of his job.

REASONING AND CONCLUSIONS OF LAW:

The question presented by this appeal is whether the claimant's separation from employment was a disqualifying event. It was.

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(2), (3), (10), (21) provide:

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:

- (2) The claimant moved to a different locality.
- (3) The claimant left to seek other employment but did not secure employment.
- (10) The claimant left employment to accompany the spouse to a new locality.
- (21) The claimant left because of dissatisfaction with the work environment.

The parties concede that the claimant left his employment voluntarily. The administrative law judge concludes that the claimant left his employment voluntarily on May 5, 2004. The issue then becomes whether the claimant left his employment without good cause attributable to the employer. The administrative law judge concludes that the claimant has the burden to prove that he has left his employment with the employer with good cause attributable to the employer. See Iowa Code Section 96.6-2. The administrative law judge concludes that the claimant has failed to meet his burden of proof to demonstrate by a preponderance of the evidence that he left his employment with the employer herein with good cause attributable to the employer. The claimant testified that basically he left his employment to find a more permanent position and to accompany his wife to Galesburg, Illinois. The claimant was dissatisfied with the temporary nature of his job. Leaving work voluntarily to move to a different locality or to accompany the spouse to a new locality or to seek other employment when not securing employment is not good cause attributable to the employer. Further, dissatisfaction with the work environment is not good cause attributable to the employer. There is not a preponderance of the evidence that the claimant's working conditions were unsafe, unlawful, intolerable or detrimental or that he was subjected to a substantial change in his contract of hire. All the witnesses agree that when the claimant was hired he was told that his position was temporary but that it had the potential of being permanent. The claimant was never given any specific closing date for his job but rather his employment was open ended with no closing date. That never changed. The evidence also establishes that work remained available for the claimant on and after May 5, 2004 with no end date, if he had not quit. The claimant testified that he quit because this was a temporary job or a potentially temporary job and he wanted something more permanent for his future. Although the administrative law judge is not without sympathy for the claimant, this is not good cause attributable to the employer for a quit when at all material times the claimant was aware that the job was temporary and that he was never told that the job would be ending and, in fact, work remained available and could have been permanent.

Accordingly, and for all the reasons set out above, the administrative law judge concludes that the claimant left his employment voluntarily without good cause attributable to the employer, and, as a consequence, he is disqualified to receive unemployment insurance benefits. Unemployment insurance benefits are denied to the claimant until or unless he requalifies for such benefits.

DECISION:

The representative's decision of May 28, 2004, reference 02, is affirmed. The claimant, Cory J. Grimm, is not entitled to receive unemployment insurance benefits, until or unless he requalifies for such benefits, because he left his work voluntarily without good cause attributable to the employer.

tjc/tjc