

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ALLEN R BURNEY
Claimant

APPEAL NO. 08A-UI-00394-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

ROYAL HOST MANAGEMENT INC
Employer

OC: 11/25/07 R: 02
Claimant: Appellant (4)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Allen Burney (claimant) appealed a representative's January 8, 2008 decision (reference 04) that concluded he was not eligible to receive unemployment insurance benefits because he voluntarily quit work with Royal Host Management (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for January 29, 2008. The claimant participated personally. The employer participated by Marsha Abernathy, Human Resources Coordinator. The employer offered and Exhibit One was received into evidence.

ISSUE:

The issue is whether the claimant voluntarily quit work without good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on August 19, 2007, as a full-time housekeeper. The employer considered 32 hours per week or more to be full-time hours. After the claimant's first week of work the employer scheduled the claimant for less than 32 hours per week. The claimant could not pay his rent unless he worked full-time hours. The claimant gave the employer one-week notice of his resignation. After the claimant quit he moved to Des Moines, Iowa, to find affordable housing. Continued work was available had the claimant not resigned.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant voluntarily quit work with good cause attributable to the employer.

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 24.26(23) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(23) The claimant left work because the type of work was misrepresented to such claimant at the time of acceptance of the work assignment.

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980). The claimant's intention to voluntarily leave work was evidenced by his words and actions. He told the employer that he was leaving and quit work. When an employee quits work because the type of work was misrepresented to the claimant at the time he accepts the job, his leaving is with good cause attributable to the employer. The claimant left work because the work was represented as full-time but it was not. His leaving was with good cause attributable to the employer. The claimant voluntarily quit with good cause attributable to the employer. Benefits are allowed.

DECISION:

The representative's January 8, 2008 decision (reference 04) is modified in favor of the appellant. The claimant voluntarily quit with good cause attributable to the employer. The claimant is eligible to receive unemployment insurance benefits.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/pjs