

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DIONICIO CONDORI-MAQUERA
Claimant

APPEAL NO. 10A-UI-04933-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

GREG'S LAWN SERVICE INC
Employer

OC: 02/21/10
Claimant: Respondent (1-R)

Section 96.5-1 – Voluntary Quit
871 IAC 24.26(21) – Job Completion
96.19-18g – Definition of Employment

STATEMENT OF THE CASE:

The employer appealed a department representative's decision dated March 25, 2010, reference 02, that held the claimant voluntarily quit with good cause on February 21, 2010, and benefits are allowed. A telephone hearing was held on May 13, 2010. The claimant did not participate. Greg Scharf, Owner, participated for the employer.

ISSUE:

Whether the claimant voluntary quit with good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge having heard the testimony of the witness, and having considered the evidence in the record, finds that: The claimant worked for the employer as a full-time laborer pursuant to a Government H2B Visa program from May 1, 2009 to the expiration of the visa on November 30, 2009.

The claimant failed to respond to the hearing notice.

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 24.26(22) 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:

(22) The claimant was hired for a specific period of time and completed the contract of hire by working until this specific period of time had lapsed. However, this subrule shall not apply to substitute school employees who are subject to the provisions of Iowa Code section 96.4(5) which denies benefits that are based on service in an educational institution when the individual declines or refuses to accept a new contract or reasonable assurance of continued employment status. Under this circumstance, the substitute school employees shall be considered to have voluntarily quit employment.

The administrative law judge concludes that the claimant voluntarily quit with good cause attributable to his employer when he completed his H2B Visa job on November 30 2009.

The job completion is based on the length of the Government program. The employment separation does not disqualify the claimant.

There may be an issue as to whether the claimant's work meets the definition of employment or one of the exceptions according to Iowa Code section 96.19-18, because it is pursuant to a government program. The issue is remanded to claims for review. The employer was instructed to contact his local workforce center about this issue.

DECISION:

The decision of the department representative dated March 25, 2010, reference 02, is affirmed. The claimant's separation from employment effective November 30, 2010, is considered a voluntary quit with good cause attributable to the employer based on a job completion. Benefits are allowed, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/pjs