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

DEJON L DOUGLAS
Claimant

KELLY SERVICES INC
Employer

APPEAL NO. 10A-UI-12255-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 02/14/10
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated August 24, 2010, reference 02, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on October 18, 2010. Employer participated by Chad Nyhus, Staffing Supervisor. Although the claimant responded to the hearing notice and provided a telephone number at which he could be reached, when that number was dialed by the administrative law judge, no one answered. A detailed message was left for the claimant on how to participate in the hearing. The claimant did not call during the hearing. The record consists of the testimony of Chad Nyhus.

ISSUE:

Whether the claimant voluntarily left for good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witness and having considered all of the evidence in the record, makes the following findings of fact:

The employer is a temporary staffing agency. The claimant accepted an assignment at Tops Business Forms in Osage, Iowa. The assignment began on June 28, 2010, and the claimant worked as a general laborer.

The claimant was scheduled for work on July 12, 2010; July 23, 2010; and July 14, 2010. He did not report to work on those days. He contacted the employer on July 14, 2010, and said that he would not be coming to work due to transportation issues.

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(1) 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:

(1) The claimant's lack of transportation to the work site unless the employer had agreed to furnish transportation.

A quit is a separation initiated by the employee. 871 IAC 24.1(113)(b). 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.

The evidence established that the claimant severed the employment relationship because he did not have transportation to the work site. Lack of transportation to the work site is not good cause attributable to the employer. The claimant did not participate in the hearing and his version of events is unknown. Accordingly, benefits are denied.

DECISION:

The decision of the representative dated August 24, 2010, reference 02, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

_____
Vicki L. Seeck
Administrative Law Judge

_____
Decision Dated and Mailed

vls/css