

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GERALD LUNA
Claimant

APPEAL NO. 07A-UI-01468-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MARK D JOHNSTON
Employer

OC: 01/07/07 R: 12
Claimant: Respondent (2)

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The employer, Mark D. Johnston, filed an appeal from a decision dated January 29, 2007, reference 01. The decision allowed benefits to the claimant, Geraldo Luna. After due notice was issued, a hearing was held by telephone conference call on February 26, 2007. The claimant did not provide a telephone number where he could be contacted and did not participate. The employer participated on his own behalf.

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

Geraldo Luna was employed by Mark D. Johnston for two days, July 10 and 11, 2006. He was hired to be part of a de-tassling crew and to work through the end of July. His last day of work was July 11, 2006, and he was no-call/no-show after that.

Geraldo Luna filed a claim for unemployment benefits with an effective date of January 7, 2007. The records of Iowa Workforce Development indicate no benefits have been paid as of the date of the hearing.

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(19) 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:

(19) The claimant was employed on a temporary basis for assignment to spot jobs or casual labor work and fulfilled the contract of hire when each of the jobs was completed. An election not to report for a new assignment to work shall not be construed as a voluntary leaving of employment. The issue of a refusal of an offer of suitable work shall be adjudicated when an offer of work is made by the former employer. The provisions of Iowa Code section 96.5(3) and rule 24.24(96) are controlling in the determination of suitability of work. 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 employee shall be considered to have voluntarily quit employment.

The claimant was hired to work on the de-tassling crew until the work was done. He did not complete the contract of hire and was no-call/no-show for more than three days. Under the provisions of the above Administrative Code section, this is a voluntary quit without good cause attributable to the employer and the claimant is disqualified.

DECISION:

The representative's decision of January 29, 2007, reference 01, is reversed. Geraldo Luna is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/kjw