

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KENNETH LONGDON
Claimant

APPEAL NO: 12A-UI-02518-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

AXCESS STAFFING SERVICES LLC
Employer

OC: 01/15/12
Claimant: Appellant (1)

Iowa Code § 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Kenneth Longdon (claimant) appealed an unemployment insurance decision dated March 7, 2012, reference 01, which held that he was not eligible for unemployment insurance benefits because he voluntarily quit his employment with Axxcess Staffing Services, LLC (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 29, 2012. The claimant participated in the hearing. The employer participated through Dennis Panosh, site manager; Irma Herrera, team shift supervisor; and Tom Kuiper, employer representative. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The employer is a temporary employment agency but provides employees only for Rock Tenn, and full-time work is available if the employee wants to work full-time. The claimant was hired on April 20, 2010 as a general laborer. He only worked eight days in November and December 2011. The claimant did not work in January 2012 but did work a few days in February 2012. He walked off the job on February 22, 2012 without notice. Continuing full-time work was available for any employees wanting to work full-time.

The claimant quit because he did not consider the employer reliable and because he reinjured his foot. He contends it was a work-related injury, but never reported it to the employer. The claimant is working for a friend who owns L & J Restaurant. He is not getting paid a regular paycheck, but his friend gives the claimant money periodically.

REASONING AND CONCLUSIONS OF LAW:

The issue to be determined is whether the reasons for the claimant's separation from employment qualify him to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if he voluntarily quit without good cause attributable to the employer. Iowa Code § 96.5-1.

Iowa Code § 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.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980) and *Peck v. Employment Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant demonstrated his intent to quit and acted to carry it out by walking off the job on February 22, 2011. Although he contends that full-time work was not available, the evidence does not support his contention. Both employer witnesses testified full-time work was available with the exception of a couple weeks in December 2011.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. He has not satisfied that burden. Benefits are denied.

DECISION:

The unemployment insurance decision dated March 7, 2012, reference 01, is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/kjw