

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KEVIN L FOWLER

Claimant

APPEAL NO. 12A-UI-10802-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

KELLY SERVICES INC

Employer

OC: 07/01/12

Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed an appeal from a decision of a representative dated August 27, 2012, reference 04, which held that the claimant was ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on October 4, 2012. The claimant participated personally. The employer failed to respond to the hearing notice and did not participate. The record consists of the testimony of Kevin Fowler.

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 Dollar General warehouse in Maquoketa, Iowa. The assignment started on July 30, 2012. The claimant quit his assignment on August 3, 2012. He had two reasons for quitting. The first was that he was only getting 28 hours per week instead of 40 hours per week. Second, he thought he had some side work lined up with a friend but that never worked out for him.

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.

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 in this case established that the claimant quit his job because he was dissatisfied with the hours and because he thought he had some "side work" lined up with a friend. The claimant lives in Davenport and the temporary assignment is in Maquoketa. The claimant only got 28 hours his first week and this was not enough money to pay for the gas for his truck. The claimant's testimony that he was "guaranteed" 40 hours per week is not credible. In addition, the claimant only worked four or perhaps five days that first week and this is hardly enough time to determine whether there were going to be sufficient hours to justify the driving expense. The most reasonable inference from the evidence is that the claimant simply did not want to pay that much for gas and thought he had a side job lined up. That is the reason why he quit his job. This may be a good personal reason, but is not good cause attributable to the employer. Benefits are denied.

DECISION:

The decision of the representative dated August 27, 2012, reference 04, 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