

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DAVE D REYNOLDS**  
Claimant

**APPEAL NO. 08A-UI-01345-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**KELLY SERVICES INC**  
Employer

**OC: 12/30/07 R: 02**  
**Claimant: Appellant (1)**

Iowa Code Section 96.5(1) – Voluntary Quit  
871 IAC 24.27 – Voluntary Quit of Part-time Employment

**STATEMENT OF THE CASE:**

Dave Reynolds filed a timely appeal from the February 1, 2008, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on February 25, 2008. Mr. Reynolds participated. The employer did not respond to the hearing notice instructions to provide a telephone number for the hearing and did not participate.

**ISSUE:**

Whether the claimant's separation from the temporary employment agency was for good cause attributable to the employer.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The employer is a temporary employment agency. Dave Reynolds established his employment relationship with Kelly Services at the beginning of July 2006 and was placed in a part-time assignment at Kraft Foods shortly after the Fourth of July holiday. Mr. Reynolds last appeared and worked a shift on Thursday, December 28, 2006. Employees assigned to work at Kraft Foods could request the number and time of the six-hour shifts they wanted to work in a given week. The employee would submit his or her request for shifts and the employer would then provide a work schedule that may or may not match the requested schedule. On or about Thursday, December 28, 2006, Mr. Reynolds received his work schedule for the next week, which included New Year's Eve and New Year's Day. Mr. Reynolds had requested to work three shifts, none of which fell on New Year's Eve or New Year's Day. Mr. Reynolds had requested New Year's Eve, New Year's Day, and January 2 off for personal reasons. The work schedule Mr. Reynolds received from the employer included the three shifts he had requested, but also a shift on each of the three days Mr. Reynolds had requested off. On Friday, December 29, Mr. Reynolds notified the employer that he had plans and could not work December 31, January 1, or January 2. The employer told Mr. Reynolds that if he failed to appear, the employer would deem each absence a "no-call/no-show" and he would be discharged from the employment. Mr. Reynolds did not appear for the shifts on December 31-January 2. Mr. Reynolds did not appear for any of the other three shifts he was

scheduled to work that week. Mr. Reynolds did not appear again for the assignment and did not make any further contact with Kelly Services.

Mr. Reynolds has not worked anywhere since separating from the temporary employment assignment at the end of December 2006.

Kelly Services is Mr. Reynolds only base period employer for purposes of the benefit year that began and the claim for benefits that was established December 30, 2007.

## **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.

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 the record indicates that Mr. Reynolds voluntarily quit the part-time employment by failing to appear for any shifts after December 28, 2007. The employer never notified Mr. Reynolds that he was actually discharged from the employment. Mr. Reynolds did not return to the employer to see whether the employer would actually follow through with the threatened discharge if he failed to appear for shifts on December 31-January 2. The administrative law judge concludes that Mr. Reynolds voluntarily quit the employment without good cause attributable to the employer.

Mr. Reynolds has not requalified for benefits since separating from the employment by earning ten times his weekly benefit amount from insured work.

An individual who voluntarily quits part-time employment without good cause attributable to the employer and who has not re-qualified for benefits by earning ten times his weekly benefit amount in wages for insured employment, but who nonetheless has sufficient other wage credits to be eligible for benefits may receive reduced benefits based on the other base period wages. See 871 IAC 24.27.

Because Kelly Services was the only base period employer for purposes of the benefit year that began and the claim for benefits that was established December 30, 2007, Mr. Reynolds has no other base period wage credits upon which reduced benefits could be based and is not eligible for benefits.

Mr. Reynolds voluntarily quit the employment without good cause attributable to the employer. Accordingly, Mr. Reynolds is disqualified for benefits until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The employer's account shall not be charged for benefits paid to Mr. Reynolds.

**DECISION:**

The Agency representative's February 1, 2008, reference 01, decision is affirmed. The claimant voluntarily quit the employment without good cause attributable to the employer. The claimant is disqualified for benefits until he has worked in a been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The employer's account shall not be charged.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

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