

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GABRIEL C SANCULI
Claimant

APPEAL NO. 11A-UI-16107-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

AVENTURE STAFFING & PROFESSIONAL
Employer

OC: 11/13/11
Claimant: Appellant (2)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated December 7, 2011, reference 01, that concluded the claimant voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on January 19, 2012. The parties were properly notified about the hearing. The claimant participated in the hearing with her representative, Michele Van Wyhe, attorney at law. Kayla Neuhaufen participated in the hearing on behalf of the employer. Exhibits One through Four were admitted into evidence at the hearing.

ISSUE:

Did the claimant voluntarily quit employment without good cause attributable to the employer?

FINDINGS OF FACT:

The employer is a staffing company that provides workers to client businesses on a temporary or indefinite basis. The claimant worked an assignment as a general laborer at Rosenboom Machine and Tool from May 2, 2011, to November 11, 2011.

When the claimant was hired, he signed a statement that he would be considered to have voluntarily quit employment if he did not contact the employer within three working days after the completion of a job assignment and request a new assignment.

On November 10, 2011, the claimant got into an argument with his supervisor. He worked part of his shift on November 11 and was asked to leave. Management at Rosenboom Machine and Tool informed the employer that the claimant was to be removed from his assignment there.

On November 14, 2011, the claimant talked to a staffing representative at the branch office. After he was informed that he was removed from this assignment at Rosenboom Machine and Tool, he asked about applying for unemployment benefits. He was told that he could file at the Workforce Development office in Sioux City or Spencer. The claimant asked the representative to let him know if they had other work for him.

Although the claimant was removed from the assignment with Rosenboom Machine and Tool, he was not considered discharged and was still eligible for future assignments.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code § 96.5-1 and 96.5-2-a. The claimant was not discharged according to the employer's human resources director.

Iowa Code § 96.5-1-j provides that individuals employed by a temporary agency must contact their employer within three working days after the completion of a work assignment and seek a new assignment or they will be considered to have voluntarily quit employment without good cause attributable to the employer, provided that the employer has given them a statement to read and sign that advises them of these requirements.

The findings of fact show how I resolved the disputed factual issues in this case by carefully assessing the credibility of the witnesses and reliability of the evidence and by applying the proper standard and burden of proof. The claimant testified credibly that on November 14, 2011, he asked the representative to let him know if they had other work for him. The employer's evidence to the contrary was a written statement from someone who was not at the hearing, under oath, and subject to questioning. The claimant's testimony is entitled to greater weight. As a result, the claimant is not subject to disqualification under Iowa Code § 96.5-1-j.

DECISION:

The unemployment insurance decision dated December 7, 2011, reference 01, is reversed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs