

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CRAIG IRVIN
Claimant

APPEAL NO: 07A-UI-10362-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ALORICA INC
Employer

OC: 10/07/07 R: 01
Claimant: Respondent (2)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Alorica, Inc. (employer) appealed an unemployment insurance decision dated November 1, 2007, reference 01, which held that Craig Irvin (claimant) was eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 28, 2007. The claimant did not comply with the hearing notice instructions and did not call in to provide a telephone number at which he could be contacted, and therefore, did not participate. The employer participated through Jennifer Jessen, AT&T Manager. Based on the evidence, the arguments of the party, 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 considered all of the evidence in the record, finds that: The claimant was employed as a full-time customer service associate for this vending site manager from April 2, 2007 through September 26, 2007 when he voluntarily quit due to a non-work-related back injury. He was rehired on October 8, 2007 and worked through November 7, 2007 after which he stopped reporting to work. The claimant had several no-call/no-shows and called in ill at other times. He was advised on November 26, 2007 that he either needed to report to work by November 27, 2007 or contact the employer by that date. The employer heard nothing from the claimant and concluded that he had abandoned his job.

The claimant filed a claim for unemployment insurance benefits effective October 7, 2007 but has not received benefits after the separation from employment.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits. He is not qualified to receive unemployment insurance benefits if he voluntarily quit without good cause attributable to the employer. Iowa Code section 96.5-1.

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 actually quit his employment two different times. He demonstrated his intent to quit and acted to carry it out on September 26, 2007 by telling his manager that he would not be returning to work due to a non-work-related back injury. The claimant was rehired on October 8, 2007 when he said his back problems were taken care of but stopped reporting to work after November 7, 2007 for reportedly the same reason he quit the first time. He was considered to have abandoned his job on November 27, 2007 when he failed to report to work or contact the employer as directed.

It is the claimant's burden to prove that the voluntary quit was for a good cause attributable to the employer. Iowa Code section 96.6-2. He has not satisfied that burden and benefits are denied.

DECISION:

The unemployment insurance decision dated November 1, 2007, reference 01, is reversed. 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. There is no overpayment as a result of this decision.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/pjs