

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RAMON T MADRID
Claimant

APPEAL NO. 08A-UI-09212-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MILLARD REFRIGERATED SERVICES INC
Employer

OC: 07/27/08 R: 03
Claimant: Appellant (3R)

Iowa Code § 96.5(1) – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the October 3, 2008, reference 01, decision that allowed benefits based upon a quitting of part-time employment. After due notice was issued, a telephone conference hearing was held on October 27, 2008. Claimant participated through interpreter Patricia Vargas. Employer participated through Tim Ash.

ISSUE:

The issue is whether claimant quit the employment without good cause attributable to the employer.

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant was employed as a full-time fork lift operator from March 31, 2008 until April 11, 2008 when he quit. A young temporary worker was assigned by a supervisor to teach him his job and the temporary worker kept telling him what to do and claimant was offended that a temporary worker would have the authority to train him even though he had only worked there for two weeks. He told the supervisor of his complaint and his supervisor did not seem to care so he quit. Claimant did not report his concern to operations manager Tim Ash, the night superintendent or the plant manager.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment without good cause attributable to the employer.

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.

871 IAC 24.25(6), (21), (27) provides:

Voluntary quit without good cause. 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 from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code § 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code § 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

- (6) The claimant left as a result of an inability to work with other employees.
- (21) The claimant left because of dissatisfaction with the work environment.
- (27) The claimant left rather than perform the assigned work as instructed.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). Claimant was not required to give notice of his intention to quit due to an intolerable, detrimental or unsafe working environment if employer had or should have had reasonable knowledge of the condition. *Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005).

The employer has the right to allocate its personnel in accordance with its needs and available resources. Claimant's decision to quit because he believed he was being trained by a temporary employee was not a good-cause reason attributable to the employer for leaving the employment. Benefits must be denied as of April 11, 2008.

DECISION:

The October 3, 2008, reference 01, decision is modified in favor of the respondent. The claimant voluntarily left his employment without good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

REMAND:

The potential overpayment issue is remanded to the claims section of Iowa Workforce Development for an initial investigation and determination.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/pjs