

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ORLANDO TRIMBLE

Claimant

APPEAL NO. 11A-UI-07675-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

AXCESS STAFFING SERVICES LLC

Employer

OC: 10-03-10

Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the June 7, 2011, reference 03, decision that denied benefits. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on July 7, 2011. The claimant participated in the hearing. Dennis Panosh, on-site manager, and Jamie Cooper, the employer's attorney, participated in the hearing on behalf of the employer. Employer's Exhibits One and Two were admitted into evidence.

ISSUE:

The issue is whether the claimant voluntarily left his employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a part-time packer for Axxcess Staffing Services from November 16, 2010 to May 25, 2011. Clients were required to show up on site and sign up for work daily and jobs were given first come first serve if the company was opening a new line or would automatically be chosen if he worked a line the day before. Sometimes the claimant would not arrive in time to be signed up on the top of the list and sometimes he was sent home early if there was not enough work. The claimant was frustrated about the amount of work he was receiving, whether that was due to him not getting there early enough or the employer not having enough work to keep him throughout the entire shift. He filed for partial unemployment around May 6, 2011, and again May 26, 2011, after being frustrated about being sent home when the work for that line that day was done. The employer does have a core group of employees—supervisors, crew leaders and employees—that always receive work because they have proven to be exemplary by their attendance and work performance. The claimant was not in that group. The employer never promised the claimant a certain number of hours, as the client's needs changed from time to time. The employer had work available everyday; but, if the claimant did not get there early enough and place his name on the sign in sheet or work was completed prior to the end of the shift, he would be sent home. The claimant was aware of the process at the time of hire when he accepted the position. He later became disillusioned about the process and failed to call the employer or show up for work May 26, 27, or 31, 2011, and the

employer considered him to have voluntarily quit his job by failing to call or show up for work for three consecutive work days.

REASONING AND CONCLUSIONS OF LAW:

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

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 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. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2. The claimant worked for the employer for approximately six months before becoming upset because he was either not being chosen or was sent home earlier than he expected because the line ran out of product. He understood how the employer's system worked and was not guaranteed any certain number of hours. Due to the fact that the nature of the business was somewhat sporadic, the claimant has not demonstrated that his leaving, by failing to call or show up for work for three consecutive workdays, was attributable to the employer as that term is defined by Iowa law. Therefore, benefits must be denied.

DECISION:

The June 7, 2011, reference 03, decision is affirmed. 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.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/kjw