

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DWIGHT L JOHNSTONE
Claimant

APPEAL NO. 09A-UI-09077-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

LABOR READY MIDWEST INC
Employer

OC: 04/26/09
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated June 17, 2009, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on July 10, 2009. Employer participated by Jennifer Spinello, branch manager. Claimant failed to respond to the hearing notice and did not participate. The record consists of the testimony of Jennifer Spinello and Employer's Exhibits One through Eleven.

ISSUE:

Whether the claimant voluntarily quit for good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witness and having considered all of the evidence in the record, makes the following findings of fact:

The employer in this case is a temporary employment agency. The claimant initially applied for work on December 26, 2001, but he did not actually work for the employer until November 13, 2007. The procedure utilized by this employer required employees to show up for work at Labor Ready and sign in. The needed employees were then given a ticket by the employer and sent to the job site. This procedure was repeated for every work day. If the claimant wanted to work for Labor Ready, then he had to show up at Labor Ready at the start of each work day. The claimant was informed about this policy in orientation and was given the policy in writing as well.

The claimant worked steadily from November 13, 2007 through May 3, 2008. After that he stopped showing up for work. He did not contact Labor Ready in any manner and did not sign the sign in sheets. The employer deemed him to be a voluntary quit as of May 10, 2008.

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.

A quit is a separation initiated by the employee. 871 IAC 24.1(113)(b). 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 this case established that the claimant voluntarily quit his employment without good cause attributable to the employer. The claimant did not testify at the hearing. The testimony of Jennifer Spinello and the actual sign in sheets show that the claimant stopped coming to work. There is no evidence that he called in to explain why he was absent. The claimant's failure to come to work and to contact his employer shows his intent to sever the employment relationship. Benefits are denied.

DECISION:

The decision of the representative dated June 17, 2009, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/pjs