

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

FRED O TOGERSON

Claimant

APPEAL NO. 11A-UI-02634-M2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

LABOR READY MIDWEST INC

Employer

OC: 11/28/10

Claimant: Respondent (2R)

Iowa Code § 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Employer filed an appeal from the February 18, 2011, reference 02, decision that allowed benefits. After due notice was issued, a telephone conference hearing was held on March 28, 2011. The claimant did not participate, having failed to respond to the hearing notice. The employer participated.

ISSUE:

The issue is whether claimant voluntarily quit with 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: The claimant last worked for the employer on September 7, 2010. He failed to work after that date due to a dissatisfaction with wages, but knew the wages when hired.

REASONING AND CONCLUSIONS OF LAW:

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(13) 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:

(13) The claimant left because of dissatisfaction with the wages but knew the rate of pay when hired.

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship after September 7, 2010 by failing to continue to work due to dissatisfaction with wages when the wages were known when hired.

DECISION:

The February 18, 2011 reference 02, decision is reversed and remanded. 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. This matter is remanded to the claims section for determination of an overpayment.

Stan McElderry
Administrative Law Judge

Decision Dated and Mailed

srm/pjs