

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KIMBERLY K RIVERA
Claimant

APPEAL NO. 12A-UI-13332-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

KELLY SERVICES INC
Employer

OC: 01/15/12
Claimant: Appellant (2)

Section 96.5-1 – Voluntary Quit
Section 96.5-1-j – Separation from Temporary Employment

STATEMENT OF THE CASE:

The claimant filed an appeal from a decision of a representative dated October 30, 2012, reference 03, which held that the claimant was ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on December 6, 2012. The claimant participated personally. The employer failed to respond to the hearing notice and did not participate. The record consists of the testimony of Kimberly Rivera.

ISSUE:

Whether the claimant voluntarily left 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 claimant began working for the employer during the third week of July 2012. The employer is a temporary staffing agency. The claimant was assigned to work at Bender Foundry in Sigourney, Iowa. The claimant's last day of work was September 21, 2012. After her work was completed that day, she received a call from the employer saying that Bender Foundry no longer wanted her back. The claimant really needed a job and asked if anything else was available. She was told no. The claimant then checked on line and found a customer service representative job. She called the employer and was told that the papers would be sent to her. The employer never sent her the paperwork to fill out for this job.

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 claimant is eligible for unemployment insurance benefits. The evidence established that the claimant's temporary assignment ended and that the claimant immediately asked for another job. She then followed up about the following Monday by asking about a customer service representative job that she had seen on line. The employer never sent her the requested paperwork to apply for that job. The employer clearly initiated the separation of employment. Unemployment benefits are therefore allowed if the claimant is otherwise eligible.

DECISION:

The decision of the representative dated October 30, 2012, reference 03, is reversed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/css