

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ONESIMO CALDERON**  
Claimant

**APPEAL NO. 09A-UI-18691-VST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TEAM STAFFING SOLUTIONS INC**  
Employer

**OC: 11/01/09**  
**Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated December 11, 2009, reference 02, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on May 4, 2010. Claimant participated. Employer participated by Sarah Fiedler, claims administrator. The record consists of the testimony of Onesimo Calderon and the testimony of Sarah Fiedler.

**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 witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The employer is a staffing agency. In February 2009, the claimant accepted a part time, on-call assignment at Heinz. The claimant worked nine days and then quit on March 9, 2009, to take another job. He returned to the employer and took the same part time on-call assignment at Heinz in June 2009. His last day of work was July 29, 2009. The claimant moved to Des Moines to find a different job.

The claimant was required to call in daily to check on whether he was needed at Heinz. In addition, the claimant signed a separate, stand alone document wherein he agreed that he would contact the employer within three days if his assignment ended and he wished to have another assignment. The employer never heard from the claimant after July 29, 2009. Work was available if the claimant had not abandoned his 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.

871 IAC 24.25(2), (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 section 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 section 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:

(2) The claimant moved to a different locality.

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

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 it was the claimant who initiated the separation of employment. He had been working a part-time, on-call assignment with the employer. He testified that he did not make enough money with this arrangement and decided to move to Des Moines. He worked on July 29, 2009, and thereafter did not call the employer on whether work was available. The claimant knew that the assignment at Heinz was part-time, on-call when he accepted the assignment. He made the personal decision to sever the employment relationship and move to Des Moines. Although the claimant may have had good personal reasons for quitting his job, those reasons are not good cause attributable to the employer. Benefits are denied.

**DECISION:**

The decision of the representative dated December 11, 2009, reference 02, 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.

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Vicki L. Seeck  
Administrative Law Judge

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Decision Dated and Mailed

vls/pjs