

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DAVID W JOHNSON
Claimant

APPEAL NO: 06A-UI-08312-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

USA STAFFING INC
Employer

**OC: 01/01/06 R: 02
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

David W. Johnson (claimant) appealed a representative's August 16, 2006 decision (reference 05) that concluded he was not qualified to receive unemployment insurance benefits after a separation from employment from USA Staffing, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 14, 2006. The claimant participated in the hearing. Brandon Rost appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit for a good cause attributable to the employer?

FINDINGS OF FACT:

The employer is a temporary employment firm. The claimant began taking assignments out of the employer's Marshalltown, Iowa office on May 12, 2006. His final assignment began on July 25, 2006. The assignment was internal to the employer doing market research. It was full time but flexible hours to be Monday through Friday. The claimant's last day worked on the assignment was August 28, 2006. On August 30, 2006 the claimant called and left a voice message for Mr. Rost, the branch manager, indicating he would not be continuing working in the assignment as scheduled the next week as he had decided to do something else that he thought might be a better fit.

The claimant was not comfortable with the interpersonal interactions necessary to perform the assigned market research, and did not believe he did it very well or was well-suited to the work. However, the employer had not expressed any concerns regarding the claimant's job performance. The claimant's sister and brother-in-law operate a towing business and had agreed that the claimant could come and help out in the shop doing some tire work and maintenance. The claimant felt that he would be more comfortable doing that kind of work, and

did help out somewhat in the business for a couple days, but he did not complete employment paperwork nor was he paid regular wages subject to withholdings, but was given some cash.

REASONING AND CONCLUSIONS OF LAW:

If the claimant voluntarily quit his employment, he is not eligible for unemployment insurance benefits unless it was for good cause attributable to the employer.

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 provides that, 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. A voluntary leaving of employment requires an intention to terminate the employment relationship. Bartelt v. Employment Appeal Board, 494 N.W.2d 684 (Iowa 1993). The claimant did express or exhibit the intent to cease working for the employer and did act to carry it out. The claimant would be disqualified for unemployment insurance benefits unless he voluntarily quit for good cause.

The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. Leaving due to disliking the assigned work is not good cause. 871 IAC 24.25(27). Leaving due to a concern about personal job performance, where the employer has not indicated any dissatisfaction, is not good cause. 871 IAC 24.25(33). Leaving to accept and enter into new or better employment would be good cause. Iowa Code § 96.5-1-a. The general definition of "employment" is "service . . . performed for wages or under any contract of hire, written or oral, expressed or implied." Iowa Code § 96.19(18)a. The claimant's arrangement with his sister and brother-in-law's business did not constitute "employment." The claimant has not satisfied his burden. Benefits are denied.

DECISION:

The representative's August 16, 2006 decision (reference 05) is affirmed. The claimant voluntarily left his employment without good cause attributable to the employer. As of July 30,

2006, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs