

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

THOMAS H PAUL
Claimant

APPEAL NO. 10A-UI-05266-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**"USA STAFFING INC
"LABOR WORLD IA
c/o UNEMPLOYMENT SVCS**
Employer

**OC: 02/28/10
Claimant: Appellant (2)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed a timely appeal from a representative's decision dated March 31, 2010, reference 01, which denied benefits based upon the claimant's separation from USA Staffing, Inc. After due notice, a telephone hearing was held on May 25, 2010. The claimant participated personally. Although duly notified, the employer did not respond to the notice of hearing and did not participate.

ISSUE:

The issue is whether the claimant left employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having considered the evidence in the record, the administrative law judge finds: Thomas Paul was employed by USA Staffing, Inc. from March 8, 2009 until March 29, 2009 as a production worker assigned to work at Hawkeye Leisure & Trailer Company. The claimant was paid \$9.00 per hour and was informed at the time of hire that overtime would be available to him.

Mr. Paul left his employment from USA Staffing, Inc. after the client employer provided notice to temporary employees that they would no longer be eligible for overtime hours. The claimant had relied upon the temporary employment service's representation that overtime would be available when he accepted the job that required approximately 60 miles of travel each day. Prior to leaving employment, Mr. Paul informed USA Staffing, Inc. of the change in the original agreement of hire although the temporary employment service had no response.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes that the claimant left employment with good cause attributable to the employer.

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 24.26(1) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(1) A change in the contract of hire. An employer's willful breach of contract of hire shall not be a disqualifiable issue. This would include any change that would jeopardize the worker's safety, health or morals. The change of contract of hire must be substantial in nature and could involve changes in working hours, shifts, remuneration, location of employment, drastic modification in type of work, etc. Minor changes in a worker's routine on the job would not constitute a change of contract of hire.

The evidence in this case establishes that at the time Mr. Paul accepted employment he was informed that overtime would be available to him at the Hawkeye Leisure & Trailer Company. The claimant relied upon this representation in accepting the work at a location that required considerable travel each day to and from the work site. Subsequently, the claimant was informed by the client employer that no further overtime would be available. The claimant considered this to be a substantial alteration of the original agreement of hire and left employment when USA Staffing, Inc. could offer no accommodation.

There being no evidence to the contrary, the administrative law judge concludes that the claimant left employment with good cause attributable to the employer based upon a substantial change in the contract of hire. Benefits are allowed, providing the claimant is otherwise eligible.

DECISION:

The representative's decision dated March 31, 2010, reference 01, is reversed. The claimant left employment with good cause attributable to the employer. Unemployment insurance benefits are allowed, providing the claimant meets all other eligibility requirements.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs