

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHAWNA K ACRES

Claimant

APPEAL NO. 07A-UI-05419-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADVANCE SERVICES INC

Employer

**OC: 04/29/07 R: 01
Claimant: Respondent (2)**

Iowa Code Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Advance Services filed a timely appeal from the May 17, 2007, reference 01, decision that allowed benefits. After due notice was issued, a hearing was held on June 12, 2007. Claimant Shawna Acres provided a telephone number for the hearing, but was not available at the number at the scheduled start of the hearing and did not participate. Molly Feldich, Human Resources Coordinator, represented the employer. The administrative law judge took official notice of the Agency's record of benefits disbursed to the claimant, which records indicate that no benefits have been disbursed in connection with the claim.

ISSUE:

Whether the claimant's voluntary quit was for good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: On February 18, 2007, Shawna Acres commenced her employment relationship with Advance Services temporary employment agency. The employer provided Ms. Acres with two assignments during the employment. The final assignment commenced on May 7, 2007. The assignment was a full-time position at Goldencrisp and involved a 20-mile commute from Ms. Acres' home in Le Mars. On May 25, 2007, Ms. Acres advised the employer that she was quitting the assignment because of the commute. However, Ms. Acres was aware of the commute when she accepted the assignment at Goldencrisp.

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.

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.

871 IAC 24.25(30) 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:

(30) The claimant left due to the commuting distance to the job; however, the claimant was aware of the distance when hired.

The evidence in the record indicates that Ms. Acres voluntarily quit the employment because she did not like the commuting distance, but that Ms. Acres was aware of the commute when she accepted the assignment. Based on the evidence in the record and applicable law, the administrative law judge concludes that Ms. Acres voluntarily quit the employment without good cause attributable to the employer. Accordingly, Ms. Acres is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The employer's account shall not be charged for benefits paid to Ms. Acres.

Because Ms. Acres received no benefits in connection with the unemployment insurance claim, there is no overpayment to address.

DECISION:

The Agency representative's May 17, 2007, reference 01, decision is reversed. The claimant voluntarily quit the employment without good cause attributable to the employer. The claimant is disqualified for benefits until she has worked in and been paid wages for insured work equal

to ten times her weekly benefit amount, provided she is otherwise eligible. The employer's account shall not be charged. The claimant has received no benefits and, therefore, there is no overpayment.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs