

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHESTER M JONES

Claimant

APPEAL NO: 11A-UI-10507-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

VAN NEVELE CONSTRUCTION LLC

Employer

OC: 03/27/11

Claimant: Respondent (1)

Section 96.5-1 – Voluntary Quit
871 IAC 24.26(19) – Temporary Employment/Spot Jobs

STATEMENT OF THE CASE:

The employer appealed a department decision dated August 2, 2011, reference 03, that held the claimant voluntarily quit with good cause on December 12, 2010, and benefits are allowed. A telephone hearing was held on August 31, 2011. The claimant participated. Joel Van Nevele, Owner, participated for the employer. Claimant Exhibit A was received as evidence.

ISSUE:

Whether the claimant voluntarily quit with good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge having heard the witness testimony and having considered the evidence in the record, finds: The employer protested claimant's unemployment stating he did not work as an employee. A department tax bureau field auditor investigated the matter by receiving questionnaire statements and documents from the claimant and employer. The department issued a decision dated July 18, 2011 that there was an employer-employee relationship between claimant and employer such that the remuneration paid to claimant for the fourth quarter of 2010 is reportable for unemployment insurance contribution purposes. The decision was not appealed and it has now become final. The employer has failed to report taxable wages for the claimant as of the date of this hearing.

The claimant was hired to work as a general labor person to work such jobs the employer had available on a periodic basis beginning late September 2010. The claimant last worked a job in Boston, Massachusetts on December 12, 2010. The employer did not contact claimant to work any further job, thereafter.

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 24.26(19) 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:

(19) The claimant was employed on a temporary basis for assignment to spot jobs or casual labor work and fulfilled the contract of hire when each of the jobs was completed. An election not to report for a new assignment to work shall not be construed as a voluntary leaving of employment. The issue of a refusal of an offer of suitable work shall be adjudicated when an offer of work is made by the former employer. The provisions of Iowa Code section 96.5(3) and rule 24.24(96) are controlling in the determination of suitability of work. However, this subrule shall not apply to substitute school employees who are subject to the provisions of Iowa Code section 96.4(5) which denies benefits that are based on service in an educational institution when the individual declines or refuses to accept a new contract or reasonable assurance of continued employment status. Under this circumstance, the substitute school employee shall be considered to have voluntarily quit employment.

The administrative law judge concludes that the claimant voluntarily quit with good cause attributable to the employer when he completed his last job on December 12, 2010.

Claimant was hired as a casual worker from job to job. His election to not report for further work after his last job is considered a quit with good cause.

DECISION:

The department decision dated August 2, 2011, reference 03, is affirmed. The claimant voluntarily quit with good cause attributable to the employer on December 12, 2010. Benefits are allowed, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/css