

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SALVADOR ORELLANA
Claimant

APPEAL NO: 07A-UI-10264-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DES STAFFING SERVICES INC
Employer

OC: 09/30/07 R: 02
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Salvador Orellana (claimant) appealed a representative's November 2, 2007 decision (reference 02) that concluded he was not qualified to receive unemployment insurance benefits, and the account of DES Staffing Services, Inc. (employer) would not be charged because the claimant voluntarily quit his employment for reasons that do not qualify him to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 26, 2007. Ike Rocha interpreted the hearing. The claimant participated in the hearing. Amy McGregor and Elisha Navarro 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.

ISSUES:

Did the claimant voluntarily quit his employment for reasons that qualify him to receive unemployment insurance benefits?

Is the claimant able to and available for work?

FINDINGS OF FACT:

The claimant started working at a job assignment for the employer in February 2007. The claimant worked the day shift. The claimant usually worked two jobs when he worked for the employer. In late September 2007, the claimant took a week off from work because he did not feel well. Even though his doctor told him not to work too much and get too tired, the claimant returned and worked October 1, 2 and 3. The claimant's doctor had not released him to return to work at that time.

After working three days, the claimant still did not feel well and decided to stop working until he felt better. The claimant told the employer he could not continue to work and was going back to his doctor in an attempt to get better. The claimant understood that when he felt better and could work, he just needed to contact the employer.

The claimant has not contacted the employer about returning to work. The claimant is still being treated by his doctor. The claimant would like a night job so he could continue his treatments with his physician during the day.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer. Iowa Code section 96.5-1. The evidence establishes the claimant quit working for the employer on October 3. When a claimant quits, he has the burden to establish he quit for reasons that qualify him to receive unemployment insurance benefits. Iowa Code section 96.6-2.

The claimant established compelling personal reasons for quitting. When the claimant quit, he did not feel well and decided he needed to take care of himself. The facts do not establish the claimant quit for health reasons that would qualify him to receive unemployment insurance benefits. 871 IAC 24.25(25) and 24.26(6)(b). As a result, the claimant is not qualified to receive unemployment insurance benefits as of September 30, 2007. Since the claimant is not qualified to receive benefits based on his employment separation, it is not necessary to address the issue of whether he is able to and available to work.

DECISION:

The representative's November 2, 2007 decision (reference 02) is affirmed. The claimant voluntarily quit his employment for personal reasons that do not qualify him to receive unemployment insurance benefits. The claimant is disqualified from receiving unemployment insurance benefits as of September 30, 2007. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs