

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARCOS TELLEZ
Claimant

APPEAL NO: 08A-UI-00227-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BEISSERS INC
Employer

OC: 12/16/07 R: 02
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Marcos Tellez (claimant) appealed an unemployment insurance decision dated January 7, 2008, reference 01, which held that he was not eligible for unemployment insurance benefits because he voluntarily quit his employment with Beissers, Inc. (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on January 23, 2008. The claimant participated in the hearing. The employer participated through Rob Lambertsen, Human Resources Manager. 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:

The issue is whether the claimant's voluntary separation from employment disqualifies him from receiving unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time general laborer from May 7, 2007 through December 13, 2007 when he voluntarily quit due to personal reasons. His father was ill and the claimant wanted to travel home to Mexico to visit him. The claimant had previously used his ten days of paid time off and had no remaining time available. He asked for two weeks off work but the employer denied the request since the claimant had already used his paid time off. The claimant called the employer on December 14, 2007 and reported that he had to take his family to Mexico to visit his father. He returned to the employer on January 7, 2008 and asked to return to work but the employer did not rehire him.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits. He is not qualified to receive unemployment

insurance benefits if he voluntarily quit without good cause attributable to the employer. Iowa Code section 96.5-1.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980) and Peck v. Employment Appeal Bd., 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant demonstrated his intent to quit and acted to carry it out by not returning to work after December 13, 2007. He left his employment to visit his ailing father in Mexico. The law presumes it is a quit without good cause attributable to the employer when an employee leaves for compelling personal reasons for a period of time exceeding ten working days. 871 IAC 24.25(20). The claimant did not return to his employer to offer his services until January 7, 2008 but was not rehired.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify him. Iowa Code section 96.6-2. He has not satisfied that burden and benefits are denied.

DECISION:

The unemployment insurance decision dated January 7, 2008, reference 01, is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/pjs