

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHANE A KESTER

Claimant

APPEAL NO: 11A-UI-12466-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

WORKSOURCE INC

Employer

OC: 10/31/11

Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit
871 IAC 24.25(19) – Self-employment

STATEMENT OF THE CASE:

The claimant appealed a department decision dated September 22, 2011, reference 05, that held he voluntarily quit employment without good cause on May 23, 2011, and benefits are denied. A hearing was held on October 17, 2011. The claimant participated. Nancy Pauli, Branch Manager, participated for the employer.

ISSUE:

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

FINDINGS OF FACT:

The administrative law judge having heard the testimony of the witnesses, and having considered the evidence in the record, finds: The claimant worked for the employer as a full-time general labor/production on assignment at Siemens from January 21, 2011 to May 23. He quit on May 24 to go to work for Paulley & Sons. This business does not have an employer tax account with the department and it did not withhold taxes from claimant's pay. He was issued a 1099, non-employee compensation tax form for his earnings in a prior year. The claimant does painting work on his own, and he is waiting for another job with Paulley's at this time.

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 24.25(19) 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:

(19) The claimant left to enter self-employment.

The administrative law judge concludes that the claimant voluntarily quit employment without good cause attributable to the employer on May 23, 2011 due to leaving for self-employment.

The claimant accepted contract labor work for Paulley & Sons knowing that this is not wages for insured work due to having receiving 1099 non-employee tax form.

DECISION:

The department decision dated September 22, 2011, reference 05, is affirmed. The claimant voluntarily quit without good cause attributable to the employer on May 23, 2011. Benefits are denied until the claimant has worked in and is paid wages for insured work, equal to ten times her weekly benefit amount, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/css