

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**SCOTT A NEWSAM**  
Claimant

**APPEAL NO: 12A-UI-11688-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ALLEN BLASTING AND COATING INC**  
Employer

**OC: 01/01/12**  
**Claimant: Appellant (2)**

Section 96.5-1 – Voluntary Quit  
871 IAC 24.26(1) – Job Change

**STATEMENT OF THE CASE:**

The claimant appealed a department decision dated September 17, 2012, reference 01, that held he voluntarily quit without good cause on August 21, 2012, and which denied benefits. A telephone hearing was held on October 23, 2012. The claimant participated. The employer did not participate.

**ISSUE:**

Whether the 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 began employment as a full-time ground technician on June 4, 2012, and last worked for the employer on August 21. Although he was promised a per diem, he did not receive it. He completed work at a job site located near his Sioux City residence on August 21. The employer told him to report to a job site the next day that is 85 miles from his residence. When he questioned about transportation expense, he was not provided with any by the employer and he could not afford the gas cost for a 170-mile daily trip. He decided not to report to the job site and left employment.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

871 IAC 24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not to be deemed misconduct within the meaning of the statute.

The administrative law judge concludes claimant voluntarily quit with good cause on August 21, 2012, due to a substantial job change attributable to the employer.

The claimant did not agree to pay for transportation to and from job sites at great distances from his residence when hired. Although the employer had agreed to provide an expense per diem, it failed to do so when it moved the job site 85 miles from claimant's area of residence. It would be unreasonable to expect an employee to commute 170 miles daily without some reimbursement unless there was an agreement between the parties at the time of hire.

**DECISION:**

The department decision dated September 17, 2012, reference 01, is reversed. The claimant voluntarily quit with good cause on August 21, 2012. Benefits are allowed, provided the claimant is otherwise eligible.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

rls/kjw