

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ERIC D REYNOLDS
Claimant

APPEAL NO. 10A-UI-00731-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

STAFFING SOLUTIONS SOUTHEAST INC
Employer

**Original Claim: 11/29/09
Claimant: Respondent (1)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated January 6, 2010, reference 03, which held claimant eligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on February 23, 2010. Claimant participated. Employer participated by Kristen McKillip, Branch Manager. Exhibit One was admitted into evidence.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds: Claimant last worked for employer on November 12, 2009. Claimant was removed from his temporary assignment by the client. No further work was available from employer. Claimant was removed because of poor attendance and poor work performance. Employer did not specify a last instance of absenteeism or poor work performance. Claimant had no warnings on his record.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when the client terminated the employment relationship because of attendance and work performance. This is a layoff. Employer cannot prove misconduct, because no final or current act of attendance or poor work was established. Poor work performance in and of itself is not disqualifiable.

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.

DECISION:

The decision of the representative dated January 6, 2010, reference 03, is affirmed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/kjw