

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOSEPH D MAHAFFEY
Claimant

APPEAL NO. 09A-UI-04687-E2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

INTRACO INC
Employer

OC: 03/01/09
Claimant: Appellant (2)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Joseph Mahaffey, claimant, filed an appeal from a decision of a representative dated March 20, 2009, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on April 21, 2009. Claimant participated and was represented by Thomas Newkirk, Attorney at Law. Employer participated by Larry Van Zee, Mary Jo Almond and Karl Seidel.

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 considered all of the evidence in the record, finds: The claimant (Mahaffey) applied for a full-time position with Intraco as a marketing assistant. The position stated the lifting requirements were 20 pounds or less. Mahaffey is a disabled veteran and an employer who hired him may be entitled to certain benefits. Mahaffey disclosed he was a veteran and that VA vocational rehabilitation would contact them. The claimant started employment on October 17, 2008. Interco had a large international trade show it was hosting and two trade shows, which is why they hired Mahaffey. Mahaffey was helping set up the show. He was in pain. Karl Seidel, his immediate supervisor, noticed he was in pain and did not want him to continue to work in pain. Seidel determined that Mahaffey could not continue to help him with the shows. Seidel mentioned that the claimant might want to consider working with Becky in sales. The claimant wanted to continue his work as a marketing assistant. Intraco determined he could not and discharged him. Mahaffey has a medical weight limitation of lifting 25 pounds or less.

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.

A quit is a separation initiated by the employee. 871 IAC 24.1(113)(b). In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

The claimant wanted to continue his job. He was discharged. The job advertised weight limitations of 20 pounds or less, within the claimant's restrictions.

The administrative law judge holds that the evidence has establish was terminated. He did not quit. He was not provided a firm job offer to work exclusively in sales.

DECISION:

The decision of the representative dated March 20, 2009, reference 01, is reversed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible.

James Elliott
Administrative Law Judge

Decision Dated and Mailed

jfe/css