

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RYAN J MITCHELL
Claimant

APPEAL NO: 10A-UI-03317-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SUPERIOR STAFFING INC
Employer

OC: 03/22/09

Claimant: Appellant (4)

Section 96.5-1 – Voluntary Leaving/Requalification

STATEMENT OF THE CASE:

Ryan J. Mitchell (claimant) appealed a representative's February 22, 2010 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits after a separation from employment from Superior Staffing, Inc. (employer). Hearing notices were mailed to the parties' last known addresses of record for a telephone hearing to be held at 11:00 a.m. on April 20, 2010. The claimant failed to respond to the hearing notice and provide a telephone number at which he could be reached for the hearing and did not participate in the hearing. The employer responded to the hearing notice and indicated that Bill Vansloun would participate as the employer's representative. When the administrative law judge contacted Mr. Vansloun for the hearing, he agreed that the administrative law judge could make a determination modifying the representative's decision based upon a review of the available information. Based on a review of the information in the administrative file and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit, and if so is he disqualified from receiving unemployment insurance benefits?

FINDINGS OF FACT:

The employer is a temporary employment firm. The claimant began taking assignments with the employer on December 31, 2008. His final assignment ended on February 9, 2009. The assignment ended because he quit to go back to school.

The claimant established an unemployment insurance benefit year effective March 22, 2009. His weekly benefit amount was calculated to be \$254.00. He started working for another employer on or about April 4, 2009. After that date he earned in excess of \$2,540.00 in that other employment. Potentially during a reduction in work with that new employer, he reopened his claim by filing an additional claim effective November 29, 2009 and again effective January 3, 2010.

REASONING AND CONCLUSIONS OF LAW:

Rule 871 IAC 24.25 provides that, 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 claimant did express his intent not to continue to work with the employer as of February 9, 2009. A voluntary leaving of employment requires an intention to terminate the employment relationship. Bartelt v. Employment Appeal Board, 494 N.W.2d 684 (Iowa 1993). The claimant did exhibit the intent to quit and did act to carry it out. The claimant would normally be disqualified for unemployment insurance benefits unless he voluntarily quit for good cause attributable to the employer. Iowa Code § 96.5-1

The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. Quitting to return to school is not a good cause attributable to the employer. 871 IAC 24.25(26). The claimant has not satisfied his burden.

However, the administrative law judge further concludes from the available information that by the time the claimant reopened his claim with the additional claim effective November 29, 2009, he had requalified for benefits since the February 9, 2009 separation from this employer. Accordingly, effective November 29, 2009, benefits are allowed and the account of the employer shall not be charged.

DECISION:

The representative's February 22, 2010 decision (reference 01) is modified in favor of the claimant. The claimant voluntarily left his employment without good cause attributable to the employer, but has requalified for benefits since the separation. Benefits are allowed as of November 30, 2009, provided the claimant is otherwise eligible. The account of the employer shall not be charged.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs