

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

RUFUS R GEORGE
PO BOX 39
AUBREY AR 72311

JACOBSON INDUSTRIAL SERVICES
1321 E EUCLID AVE
DES MOINES IA 50316

Appeal Number: 05A-UI-12322-DT
OC: 11/06/05 R: 12
Claimant: Appellant (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Rufus R. George (claimant) appealed a representative's December 2, 2005 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits after an at least temporary separation from employment from Jacobson Industrial Services (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on December 22, 2005. The claimant participated in the hearing. The employer failed to respond to the hearing notice and provide a telephone number at which a representative or witness could be reached for the hearing and did not participate in the hearing. Based on the evidence, the arguments of the claimant, 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 for a good cause attributable to the employer?

FINDINGS OF FACT:

The employer is a temporary employment firm. The claimant first, and to date only, assignment began on March 25, 2005. His last day on the assignment was November 3, 2005. The assignment ended as of that date because his stepfather passed away on November 3, 2005. His mother called him on the evening of November 3 and asked him to come to Arkansas to be with her and assist in handling family matters.

The claimant called the employer's representative the morning of November 4, 2005 and asked if he could be taken off the assignment at least long enough to go and assist his mother and family. The employer's representative agreed, and the claimant drove to Arkansas that day. His stepfather's funeral was November 12, 2005. On or about November 15, 2005, he again contacted the employer's representative. She asked him when he would be able to return, and he indicated that it was hard to say, as there were some complications in resolving some of the family and estate issues. She agreed that she would keep him on the roster of employees eligible for reassignment. As of the date of the hearing, the claimant still has not completed his work with the family matters, is not currently in a position to return to the employer, and has not yet recontacted the employer.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant voluntarily quit, and if so, whether it was for good cause attributable to the employer.

Iowa Code section 96.5-1-e 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. But the individual shall not be disqualified if the department finds that:

e. The individual left employment upon the advice of a licensed and practicing physician, for the sole purpose of taking a member of the individual's family to a place having a different climate, during which time the individual shall be deemed unavailable for work, and notwithstanding during such absence the individual secures temporary employment, and returned to the individual's regular employer and offered the individual's services and the individual's regular work or comparable work was not available, provided the individual is otherwise eligible.

While he did notify the employer before, the claimant did leave his employment for compelling personal reasons. The period of time has exceeded ten working days, but the employer has allowed additional time. However, pursuant to the statute, the period of absence away from the employer is considered to be a temporary separation, and during the time of that separation, the claimant is not eligible for benefits.

DECISION:

The representative's December 2, 2005 decision (reference 01) is affirmed. The claimant voluntarily left his employment for compelling personal reasons but without good cause attributable to the employer. As of November 4, 2005, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount or until such time as he returns to his employment with the employer, provided he is then otherwise eligible.

ld/kjw