

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TONY T MASSEY
Claimant

APPEAL NO. 16A-UI-06709-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CHARLES DRAKE & ASSOCIATES
Employer

OC: 05/15/16
Claimant: Appellant (1)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Tony Massey (claimant) appealed a representative's June 6, 2016, decision (reference 01) that concluded he was not eligible to receive unemployment insurance benefits because he voluntarily quit work with Charles Drake & Associates (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for June 30, 2016. The claimant participated personally. The employer participated by Charles Drake, Owner, Owner, and Brenda Madison, Recruiter.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The employer is a temporary agency. The claimant was hired in May 2011. From January 27, 2013, to May 3, 2016, the claimant was assigned to work at Papa John's as a full-time lumper. He worked Monday, Tuesday, and Friday. The claimant signed for receipt of the employer's handbook.

The claimant suffered a non-work-related injury to his thumb on May 5, 2016. He notified Papa John's that he would not be at work on May 6, 2016. He did not report his absence from work on May 9, 10, or 13, 2016. The claimant decided he could not work because of his injury. He did not have a doctor's note. The employer assumed the claimant had quit work. On May 15, 2016, the claimant left a voice message for Papa John's asking when he could return to work. Papa John's told the employer there was no work for the claimant anymore. The claimant asked for work on May 16, 2016. The employer told the claimant there was no work for him. Continued work was available had the claimant not resigned on May 9, 2016.

The claimant's and the employer's testimony is inconsistent. The administrative law judge finds the employer's testimony to be more credible. The claimant's testimony was internally inconsistent.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant voluntarily quit work without good cause attributable to the employer.

Iowa Code § 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 voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980). The claimant's intention to voluntarily leave work was evidenced by the claimant's actions. The claimant stopped appearing for work and reporting his absences. There was no evidence presented at the hearing of good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

DECISION:

The representative's June 6, 2016, decision (reference 01) is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount, provided the claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/pjs