

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JAKE L SCHILLING
Claimant

APPEAL NO. 11A-UI-01452-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

AVENTURE STAFFING & PROFESSIONAL
Employer

OC: 10/31/10
Claimant: Appellant (4)

871 IAC 24.1(113)a – Temporary Layoff
Section 96.5-1 – Voluntary Quit
871 IAC 24.25(2) – Move to a New Locality

STATEMENT OF THE CASE:

The claimant appealed a department decision dated January 27, 2011, reference 01, that held he voluntarily quit employment without good cause on October 28, 2010, and that denied benefits. A telephone hearing was held on March 9, 2011. The claimant participated. Cyd Hall, office manager, participated for the employer.

ISSUE:

Whether claimant voluntarily quit with good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having considered the evidence in the record, finds: The claimant worked an assignment for the employer at DEMCO as a part-time laborer from April 5, 2010 to October 28. A DEMCO representative advised the claimant that his services were no longer needed on Thursday, October 28. When claimant went in to the employer to receive his second-to-last paycheck on Friday, October 29, he advised an employer representative that he had been laid off. The claimant got his final paycheck on the following Friday, November 5.

An employer representative called claimant on November 22 to offer him the same job and assignment at DEMCO. The claimant rejected the job offer because he had moved 20 miles away, and did want the travel expense.

REASONING AND CONCLUSIONS OF LAW:

871 IAC 24.1(113)a provides:

Separations. All terminations of employment, generally classifiable as layoffs, quits, discharges, or other separations.

a. Layoffs. A layoff is a suspension from pay status (lasting or expected to last more than seven consecutive calendar days without pay) initiated by the employer without prejudice to the worker for such reasons as: lack of orders, model changeover, termination of seasonal or temporary employment, inventory-taking, introduction of laborsaving devices, plant breakdown, shortage of materials; including temporarily furloughed employees and employees placed on unpaid vacations.

The administrative law judge concludes the claimant was temporarily laid off when he completed his assignment on October 28, 2011.

The employer had no work available to offer the claimant at the time of his layoff, and he provided notice to the employer of his availability when he got his paycheck on October 29. The claimant is eligible for benefits effective October 31, 2010.

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.

871 IAC 24.25(2) provides:

Voluntary quit without good cause. 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 employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(2) The claimant moved to a different locality.

The administrative law judge further concludes that the claimant voluntarily quit employment without good cause attributable to the employer on November 22, 2010, due to moving to a new locality.

The claimant's decision to move placed a personal restriction on his return to the same job assignment that he had worked for the employer, which is a quit without good cause attributable to the employer. The claimant is eligible for benefits for the three weeks ending November 20, 2010, due to the layoff, but then denied due to his quit effective November 21.

DECISION:

The department decision dated January 27, 2011, reference 01, is modified. The claimant completed his job assignment on October 28, 2010 with timely notice to the employer, and his employment separation is a layoff. The claimant voluntarily quit without good cause attributable to the employer on November 22, 2010. Benefits are allowed from the effective date of claimant's claim through November 20, 2010. Benefits are denied effective November 21, 2010 until the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/kjw