

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**NHIAL G YIEN**  
Claimant

**APPEAL NO. 12A-UI-12823-VST**

**MARSDEN BLDG MAINTENANCE LLC**  
Employer

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 09/16/12**  
**Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

The claimant filed an appeal from a decision of a representative dated October 15, 2012, reference 01, which held that the claimant was ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on November 27, 2012. The claimant participated personally. The employer did respond to the hearing notice. When the employer was called by the administrative law judge, the call was placed on hold for a considerable period of time. The administrative law judge called a second time and was again placed on hold. After waiting for the employer for several minutes, the call was disconnected and the hearing began. The employer did not call in during the hearing. The record consists of the testimony of Nhial Yien.

**ISSUE:**

Whether the claimant voluntarily left for good cause attributable to the employer.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony of the witness and having considered all of the evidence in the record, makes the following findings of fact:

The claimant did janitorial work for the employer. He worked part-time during the school year. When the summer of 2012 arrived, the claimant asked for full-time hours. He was transferred to another building and was given full-time hours. The claimant told the employer he would have to leave once school began. The claimant's last day of work was August 23, 2012. He asked for a reduction in hours and a transfer back to the other building. The employer never responded to his request. The claimant left work to go to school. He is presently in school at DMAAC and is taking ten-credit hours.

**REASONING AND CONCLUSIONS OF LAW:**

871 IAC 24.25(26) 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:

(26) The claimant left to go to school.

The claimant is not eligible for unemployment insurance benefits. The evidence established that the claimant left his full-time job with the employer as of August 23, 2012, when he returned to school. The claimant wanted part-time hours, but the employer did not give him part-time hours. A new contract of hire was established when the claimant asked for full-time hours and was transferred to a different building. The claimant became a full-time employee whereas he had previously been a part-time employee. He quit this full-time job in order to return to school. The claimant therefore left his employment without good cause attributable to the employer. The employer was not obligated to give the claimant back his old job with part-time hours. Accordingly, benefits are denied.

**DECISION:**

The decision of the representative dated October 15, 2012, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

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Vicki L. Seeck  
Administrative Law Judge

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Decision Dated and Mailed

vls/jc