

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

STEVEN M ROSS
Claimant

APPEAL NO. 17A-UI-02175-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

L A LEASING INC
Employer

OC: 01/15/17
Claimant: Appellant (1/R)

Iowa Code Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Steven Ross filed a timely appeal from the February 13, 2017, reference 01, decision that disqualified him for benefits and that relieved the employer of liability for benefits, based on the claims deputy's conclusion that Mr. Ross voluntarily quit on August 5, 2016 without good cause attributable to the employer. After due notice was issued, a hearing was held on March 21, 2017. Mr. Ross participated. Colleen McGuinty represented the employer and presented additional testimony through Joe Vermeulen. Exhibits A, B and C were received into evidence.

ISSUE:

Whether Mr. Ross separated from the employment for a reason that disqualifies him for unemployment insurance benefits or that relieves the employer's account of liability for benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: L. A. Leasing, Inc. is a temporary employment agency. Steven Ross established his employment relationship with L. A. Leasing in April 2015. The employer had Mr. Ross sign an Availability Statement that obligated him to contact the employer within three working days of completion of an assignment to request placement in a new assignment or be deemed to have voluntarily quit and risk consequences to his unemployment insurance benefit eligibility. The policy statement appeared as a stand-alone document with no other policies set forth on the same document. Mr. Ross received a copy of the Availability Statement he signed.

Mr. Ross most recently performed work for L.A. Leasing in a full-time, temp-to-hire work assignment at Paladin Custom Works in Dubuque. Mr. Ross began the assignment in February 2016. Mr. Ross did not complete the assignment. Instead, Mr. Ross resigned from the assignment effective August 5, 2016. Mr. Ross voluntarily quit the assignment to focus on his college studies. Mr. Ross started college at Northeast Iowa Community College on May 18, 2016. Though the Paladin assignment was full-time, Mr. Ross elected to reduce his work availability to part-time in May 2016, when he commenced his studies. Mr. Ross became a full-time college student on August 22, 2016, at the start of the fall semester.

REASONING AND CONCLUSIONS OF LAW:

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.

Iowa Admin. Code r. 871-24.25(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.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 698, 612 (Iowa 1980) and *Peck v. EAB*, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

Mr. Ross proved to be an unreliable witness at the appeal hearing. Though Mr. Ross testified that his most recent assignment with L.A. Leasing ended in May 2016, the employer's testimony from payroll records refuted that assertion and established the final day in the employment as August 5, 2016. Mr. Ross' inability to provide reliable information on such a basic and central fact, by misstating the separation date by a matter of three months, called into question the reliability of other aspects of his testimony.

The weight of the evidence in the record establishes that Mr. Ross voluntarily quit the employment effective August 5, 2016 so that he could focus on his college studies. The quit was without good cause attributable to the employer. Accordingly, effective August 5, 2016, Mr. Ross is disqualified for benefits until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount. Mr. Ross must meet all other eligibility requirements. The employer's account shall not be charged for benefits paid to Mr. Clark.

This matter will be remanded to the Benefits Bureau for determination of whether Mr. Ross requalified for benefits under Iowa Code Section 96.5(1)(g) by earning and being paid 10 times his \$285.00 weekly benefit amount for insured work subsequent to the August 5, 2016 separation from L.A. Leasing and prior to establishing the January 15, 2017 original claim. Mr. Ross should be prepared to present payroll evidence documenting his wages from the new employment that followed the employment with L.A. Leasing.

DECISION:

The February 13, 2017, reference 01, decision is affirmed. The claimant voluntarily quit the employment on August 5, 2016 without good cause attributable to the employer. The claimant is disqualified for benefits until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount. The claimant must meet all other eligibility requirements. The employer's account shall not be charged for benefits.

This matter is remanded to the Benefits Bureau for determination of whether the claimant requalified for benefits subsequent to his August 5, 2016 separation from this employer and prior to the January 15, 2017 original claim.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/rvs