

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ALEJANDRO R LEDEZMA
Claimant

APPEAL NO. 08A-UI-06873-JTT

**ADMINISTRATIVE LAW JUDGE
AMENDED DECISION**

CAMBRIDGE TEMPOSITIONS INC
Employer

**OC: 06/15/08 R: 04
Claimant: Appellant (1)**

Iowa Code Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Alejandro Ledezma appealed from an unemployment insurance decision dated July 16, 2008, reference 01, that denied benefits. A telephone hearing was scheduled for September 10, 2008. Mr. Ledezma participated. Account Manager Will Ortega represented the employer. Spanish-English interpreter Ike Rocha assisted with the hearing.

ISSUE:

Whether Mr. Ledezma voluntarily quit or was discharged from his assignment and/or employment on or about March 14, 2008. The administrative law judge concludes that Mr. Ledezma voluntarily quit.

Whether Mr. Ledezma's voluntary quit was for good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Alejandro Ledezma established his employment relationship with Cambridge Tempositions in 2001. Cambridge Tempositions is a temporary employment staffing agency. Cambridge Tempositions placed Mr. Ledezma in full-time assignments at Millard Refrigerated Services. Mr. Ledezma's most recent assignment commenced on July 2, 2007. Mr. Ledezma's regular work hours were 7:00 a.m. to 3:30 p.m. Account Manager Will Ortega supervised the assignment for Cambridge Tempositions. Mr. Ledezma last appeared and performed work in the assignment on Friday, March 14, 2008. Mr. Ledezma did not appear for his shifts on March 17, 18 or 19 or make further contact with Cambridge Tempositions or Millard Refrigerated Services. The employer continued to have work available for Mr. Ledezma in the assignment at Millard Refrigerated Services. The employer had more than 20 other employees who continued to perform work at Millard Refrigerated Services after Mr. Ledezma ceased appearing for work. Neither Millard Refrigerated Services nor Cambridge Tempositions had ended the assignment. If Millard Refrigerated Services had ended the assignment, Millard Refrigerated Services would have contacted Account Manager Will Ortega directly as it had in connection with past assignments. Cambridge Tempositions had a written policy that placed Mr. Ledezma on warning that the employer would consider three no-call, no-show absences a voluntary quit. Mr. Ledezma had

signed the policy and had received a copy of the policy. Mr. Ledezma is a Spanish-speaking person. The policy was provided to Mr. Ledezma in Spanish.

REASONING AND CONCLUSIONS OF LAW:

The first question is whether Mr. Ledezma voluntarily quit or was discharged from the assignment and/or employment. A discharge is a termination of employment initiated by the employer for such reasons as incompetence, violation of rules, dishonesty, laziness, absenteeism, insubordination, or failure to pass a probationary period. 871 IAC 24.1(113)(c). A quit is a separation initiated by the employee. 871 IAC 24.1(113)(b). 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.

A person who fails to appear for work or contact the employer for three days in a row is presumed to have voluntarily quit without good cause attributable to the employer, provided the employer had a policy that placed the person on notice that such an absence would be treated as a voluntary quit. See 871 IAC 24.25(4).

The greater weight of the evidence indicates that Mr. Ledezma voluntarily quit and was not discharged. The greater weight of the evidence indicates that Mr. Ledezma ceased appearing for work after he appeared on March 14, 2008 and made no further contact with Cambridge Tempositions or Millard Refrigerated Services. The greater weight of the evidence indicates that neither Millard Refrigerated Services nor Cambridge Tempositions had communicated to Mr. Ledezma that the assignment was ended. The administrative law judge notes that Mr. Ledezma's testimony was generally vague with regard to the details of his separation from the assignment and the employment. The greater weight of the evidence leads the administrative law judge to conclude that the employer's testimony was more credible.

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.

Mr. Ledezma voluntarily quit the employment without good cause attributable to the employer. Accordingly, Mr. Ledezma is disqualified for benefits until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The employer's account shall not be charged for benefits paid to Mr. Ledezma.

DECISION:

The Agency representatives July 16, 2008, reference 01, decision is affirmed. The claimant voluntarily quit the employment 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, provided he is otherwise eligible. The employer's account shall not be charged.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs