

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TIMOTHY E COOLEY**  
Claimant

**APPEAL NO. 09A-UI-02692-LT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**GATEWAY/ACG INC**  
Employer

**OC: 01/11/09**  
**Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Leaving

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the February 13, 2009, reference 01, decision that denied benefits. After due notice was issued, a telephone conference hearing was held on March 16, 2009. Claimant participated with Francisco Altermirano, Union Representative. Employer participated through Steve Finley and Jeff Ness.

**ISSUE:**

The issue is whether quit the employment without good cause attributable to the employer or if he was discharged for reasons related to job misconduct sufficient to warrant a denial of unemployment benefits.

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant most recently worked full-time as a glazer and was employed from August 11, 2008 until January 5, 2009 when he quit. He failed to return to work after he was excused for jury duty on December 29, 2008 because he does not have a valid driver's license and did not have transportation back to the job site in Minnesota until January 12, 2009.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment 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.

871 IAC 24.25(1) 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 § 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 § 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:

(1) The claimant's lack of transportation to the work site unless the employer had agreed to furnish transportation.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2).

Claimant could have explored taking a bus from Cedar Rapids to Minnesota in order to report for work rather than waiting for 10 days for someone to return to Iowa for the weekend and give him a ride to Minnesota. His failure to report for work due to a lack of transportation is not a good-cause reason attributable to the employer for leaving the employment. Benefits must be denied.

**DECISION:**

The February 13, 2009, reference 01, decision is affirmed. The claimant voluntarily left his employment without good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

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