

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CARLOS D FIGUEOA
Claimant

APPEAL NO: 13A-UI-04051-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

REMEDY INTELLIGENT STAFFING INC
Employer

OC: 03/10/13
Claimant: Appellant (1)

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 April 1, 2013, reference 01, that held he voluntarily quit employment without good cause on February 15, 2013, and benefits are denied. A telephone hearing was held on June 17, 2013. The claimant, Interpreter, Rafael Geronimo, and Attorney, Elizabeth Norris, participated. Nate Castillo, UI Supervisor, participated for the employer.

ISSUE:

The issue is whether the claimant voluntarily quit with good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge having heard the witness testimony and having considered the evidence in the record finds: The claimant worked for the employer from September 17, 2012 to February 16, 2013. He accepted a full-time production job at Graham packaging. He ran out of attendance points at Graham so the employer offered him a similar job at Oral B. He had most recently missed work due to a transportation problem. Previously, the employer had accommodated claimant due to prior attendance issues at Graham in order to continue work.

Claimant declined the job offer at Oral B on February 17 stating he was leaving for Porto Rico and would contact the employer when he would return. The employer accepted the message as a voluntary quit of employment. Claimant did not contact the employer for further work.

REASONING AND CONCLUSIONS OF LAW:

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 concludes that the claimant voluntarily quit employment without good cause attributable to the employer on February 17, 2013.

The employer offered specific work information history that claimant had attendance issues on his work assignment to the point that it interceded for him to keep him on the job. When claimant reached the attendance level for points on February 16 due to missing work due to a transportation issue, the employer offered another job assignment at Oral B in order to continue employment. Claimant declined stating he was leaving for Porto Rico and failed to return to work thereafter that is a voluntary quit without good cause. The employer witness had a personal conversation with claimant and made it sure he understood it.

Claimant contends he does not understand English and he denies he told the employer he was leaving. Claimant offered information in this hearing that shows he understood enough about the job separation that he knew what was going on. It is not believable an employer that had saved claimant's job at Graham would later discharge him for attendance points.

DECISION:

The department decision dated April 1, 2013, reference 01, is affirmed. The claimant voluntarily quit without good cause attributable to the employer on February 15, 2013. Benefits are denied until the claimant has worked in and is paid wages for insured work, equal to ten times his weekly benefit amount, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/pjs