

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOSE A PEREZ
Claimant

APPEAL NO. 08A-UI-00343-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CHAMBERLAIN TILE CO INC
Employer

OC: 10/28/07 R: 12
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Jose Perez filed an appeal from a representative's decision dated January 4, 2008, reference 02, which denied benefits based upon his separation from Chamberlain Tile Co., Inc. After due notice was issued, a hearing was held by telephone on January 28, 2008. Mr. Perez participated personally. The employer participated by Donna Chamberlain and Richard Chamberlain. Official interpreter was Oliver Koch.

ISSUE:

The issue in this matter is whether the claimant quit for good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: The claimant last worked for this employer from February 2007 until March 23, 2007 when the claimant left employment to relocate to El Paso, Texas. Mr. Perez was employed as a full-time construction tile worker and was paid by the hour. His immediate supervisor was Richard Chamberlain.

Mr. Perez had moved his family to El Paso, Texas in October 2006. The claimant returned to employment with Chamberlain Tile Co., Inc. in February 2007 and continued until he chose to leave employment on March 23, 2007 to relocate to the state of Texas. As a construction worker, the claimant was aware that the employer could not offer 40 hours of employment each week, and that at times his working hours would be somewhat less than full time, depending on business conditions. When conditions slowed in March 2007, the claimant decided to leave employment and informed his employer that he was choosing to move to the state of Texas. Work continued to be available to Mr. Perez at the time that he chose to leave.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes based upon the evidence in the record that the claimant was the moving party in ending the employment relationship. Mr. Perez informed the company

on or about March 20, 2007 that he desired to move back to the state of Texas where his family resides. Although the claimant was somewhat dissatisfied with less than full-time working hours that were available to him, he knew or should have known that as a construction worker that at times working hours would vary due to weather and business conditions. The evidence in the record establishes that work continued to be available to Mr. Perez at the time that he chose to leave for personal reasons.

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.

For the reasons stated herein, the administrative law judge concludes that the claimant left employment for reasons that were not directly attributable to the employer but based upon the claimant's personal desire to relocate to the state of Texas where his family resides. Benefits are withheld.

DECISION:

The representative's decision dated January 4, 2008, reference 02, is hereby affirmed. The claimant voluntarily quit employment for reasons not attributable to the employer. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times the claimant's weekly benefit amount, provided that he meets all other eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs