

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CRAIG A TRAUFFER
Claimant

APPEAL NO. 10A-UI-06752-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

L A LEASING INC
Employer

OC: 03/28/10
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated May 3, 2010, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on June 28, 2010. Employer participated by Colleen McGuinty, unemployment administrator. Although the claimant responded to the hearing notice and provided a telephone number at which he was to be available for the hearing, when the administrative law judge dialed that number a recording said that the number was no longer in service. The number was dialed a second time and the same recording came on. The record consists of the testimony of Colleen McGuinty.

ISSUE:

Whether the claimant voluntarily left for good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The employer is a temporary staffing agency. The claimant made an application for temporary assignments on January 18, 2010. He was assigned to work as a maintenance and repair worker at the Rock Island Housing Authority on February 1, 2010. The claimant alleged an injury on the job to his back and was given light duty restrictions. The employer offered the claimant a light duty job, which he accepted. He was to report to his light duty assignment on March 26, 2010. The hours were 8:00 a.m. to 5:00 p.m., with lunch break and work breaks.

The claimant did not report for work on March 26, 2010, or March 29, 2010. He did come in to tell another employee that he was just put on disability for a mental health condition. However, on March 31, 2010, he called the employer to put his name on the availability list.

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.

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.

The claimant filed a claim for benefits with an original claim date of March 28, 2010. As of March 26, 2010, the claimant had been offered and had accepted a light duty job because of an alleged work injury. He did not report for work either March 26, 2010, or March 29, 2010. He claimed to have been placed on "disability." He then called on March 31, 2010, to indicate he was available for work. A reasonable inference from the employer's testimony is that the claimant initiated the separation from employment by failing to come to work as expected and then informing the employer that he was on "disability" from an unrelated mental health problem.

Work was available for the claimant at the time he stopped coming to work. Since the claimant did not testify at the hearing, his explanation for his failure to come to work is unknown. The claimant had the burden of proof to show that he left his employment for good cause attributable to the employer. He has not sustained that burden. Benefits are denied.

DECISION:

The decision of the representative dated May 3, 2010, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/pjs

