

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ALLEN D SAUER
Claimant

**R J PERSONNEL
TEMP ASSOCIATES**
Employer

APPEAL NO: 11A-UI-01393-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

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

Section 96.5-1 – Voluntary Quit
871 IAC 24.25(16) – Incarceration

STATEMENT OF THE CASE:

The claimant appealed a department decision dated January 26, 2011, reference 02, that held he voluntarily quit without good cause attributable to his employer on January 4, 2011, and benefits are denied. A telephone hearing was held on March 22, 2011. The claimant participated. Holly Jacobi, Account Manager, participated for the employer. Employer Exhibits 1 – 5 were received as evidence.

ISSUE:

Whether the claimant voluntarily quit without good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge having heard the testimony of the witnesses, and having considered the evidence in the record, finds: The claimant began work for the employer on assignment at Allsteel (temp to hire) as a full-time assembly worker on October 11, 2010. The claimant last worked on December 30. Claimant was arrested on December 30 for failing to register as a sex offender by Muscatine law enforcement. He was transported to the Linn County jail.

Claimant failed to call-in and report for work at Allsteel on January 3, and 4. He was released from jail about noon on the fourth. When he checked with the employer about work on January 10, he was told that Allsteel would not allow him to return to the assignment and he was considered a voluntary quit due to his incarceration.

REASONING AND CONCLUSIONS OF LAW:

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(16) 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:

(16) The claimant is deemed to have left if such claimant becomes incarcerated.

The administrative law judge concludes the claimant voluntarily quit without good cause attributable to his employer due to incarceration on January 4, 2011.

The law considers an incarceration to be a voluntary quitting of employment, and the claimant admitted he failed to report for work for this reason.

DECISION:

The department decision dated January 26, 2011, reference 02, is affirmed. The claimant voluntarily quit without good cause attributable to his employer on January 4, 2011. Benefits are denied until the claimant requalifies by working in and being 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