

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ALFREDO D TULLIANI
Claimant

APPEAL NO: 12A-UI-06672-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

KELLY SERVICES
Employer

OC: 06/12/11

Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Alfredo D. Tulliani (claimant) appealed a representative's May 29, 2012 decision (reference 03) that concluded he was not qualified to receive unemployment insurance benefits after a separation from employment with Kelly Services (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on June 28, 2012. The claimant failed to respond to the hearing notice and provide a telephone number at which he could be reached for the hearing and did not participate in the hearing. Beverly Gardner appeared on the employer's behalf. Based on the evidence, the arguments of the employer, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit for a good cause attributable to the employer?

OUTCOME:

Affirmed. Benefits denied.

FINDINGS OF FACT:

The employer is a temporary employment/staffing firm. The claimant's first and to date only assignment with the employer began on April 30, 2012. His last day on the assignment was May 7, 2012. The assignment ended because the claimant informed the business client that he was not going to continue in the assignment.

When the claimant was initially offered the assignment, he was given a choice between a first shift "man-up"/forklift position and a second shift sit down position; he chose the first shift position. On May 7 the claimant informed his supervisor that he wished to change to the sit down position because the heights required in the "man-up/forklift position bothered him. The claimant had not previously indicated a concern regarding heights. At that time the employer was not able to allow the claimant to switch to the alternative position which he had not chose. As a result, the claimant ended his employment with the employer.

REASONING AND CONCLUSIONS OF LAW:

If the claimant voluntarily quit her employment, he is not eligible for unemployment insurance benefits unless it was for good cause attributable to the employer. Iowa Code § 96.5-1. Rule 871 IAC 24.25 provides that, 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. A voluntary leaving of employment requires an intention to terminate the employment relationship and an action to carry out that intent. *Bartelt v. Employment Appeal Board*, 494 N.W.2d 684 (Iowa 1993); *Wills v. Employment Appeal Board*, 447 N.W.2d 137, 138 (Iowa 1989). The claimant did express or exhibit the intent to cease working for the employer and did act to carry it out. The claimant would be disqualified for unemployment insurance benefits unless he voluntarily quit for good cause.

The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3), (4). Leaving because of a dissatisfaction with the work environment is not good cause. 871 IAC 24.25(21). The claimant has not provided sufficient evidence to conclude that a reasonable person would find the employer's work environment detrimental or intolerable. *O'Brien v. Employment Appeal Board*, 494 N.W.2d 660 (Iowa 1993); *Uniweld Products v. Industrial Relations Commission*, 277 So.2d 827 (FL App. 1973). The claimant has not satisfied his burden. Benefits are denied.

DECISION:

The representative's May 29, 2012 decision (reference 03) is affirmed. The claimant voluntarily left his employment without good cause attributable to the employer. As of May 7, 2012, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs