

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JEROLD R DUHN
Claimant

APPEAL NO. 10A-UI-01960-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HY-VEE INC
Employer

**Original Claim: 12/13/09
Claimant: Appellant (1)**

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Jerold Duhn filed an appeal from a representative's decision dated January 27, 2010, reference 01, which denied benefits based on his separation from Hy-Vee, Inc. After due notice was issued, a hearing was held by telephone on March 17, 2010. Mr. Duhn participated personally. The employer participated by Jason Stocker, Manager of Store Operations.

ISSUE:

At issue in this matter is whether Mr. Duhn was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Duhn was employed by Hy-Vee, Inc. from March 27 until August 5, 2009 as a full-time stocker. During the employment, he was residing in a residential treatment facility. When he was released from the facility, he decided to relocate to his hometown, Spirit Lake, Iowa, which was 65 miles from where he worked. Because of the distance, he could no longer work for the employer in Sheldon. Therefore, he gave two weeks' notice that he was leaving. His relocation was the sole reason for the separation. Continued work would have been available if he had not quit.

After his separation, Mr. Duhn performed services for Fidler's Floors in Spirit Lake. He was considered an independent contractor and his earnings were reported on an IRS Form 1099.

REASONING AND CONCLUSIONS OF LAW:

An individual who leaves employment voluntarily is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). The term "good cause attributable to the employer" generally refers to some matter over which the employer has control. In the case at hand, Mr. Duhn quit to move to Spirit Lake. This was not a decision within the control of his employer.

An individual who leaves employment to move to a different locality is presumed to have left employment without good cause attributable to the employer. 871 IAC 24.25(2). Although Mr. Duhn may have had other work arranged when he left Hy-Vee, Inc., the other work was self-employment rather than employment. An individual who leaves work to enter self-employment is presumed to have quit without good cause attributable to the employer. 871 IAC 24.25(19).

Inasmuch as the evidence of record does not establish any good cause attributable to the employer for Mr. Duhn's separation, he is not entitled to job insurance benefits.

DECISION:

The representative's decision dated January 27, 2010, reference 01, is hereby affirmed. Mr. Duhn voluntarily quit his employment with Hy-Vee, Inc. on August 5, 2009 for no good cause attributable to the employer. Benefits are denied until he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he is otherwise eligible.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/kjw