

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GLENN J LINDEMANN

Claimant

APPEAL NO. 11A-EUCU-00881-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADVANCE SERVICES INC

Employer

OC: 12/26/10

Claimant: Respondent (1)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the December 12, 2011, reference 01, decision that denied benefits based on an Agency conclusion that the claimant had voluntarily quit without good cause attributable to the employer. A hearing was set for January 17, 2012, and the parties were appropriately notified by notice mailed on December 21, 2011. The claimant submitted a written statement in lieu of participating in the hearing. The claimant did not respond to the hearing notice instructions to provide a telephone number for the hearing. The claimant did not request postponement of the hearing. The employer provided a number for the hearing and named a representative: Holly Carter at 402-331-3915. The employer representative was not available at the number provided for the hearing. The administrative law judge held the record open for a hour to give the parties additional opportunity to make themselves available for the hearing, but they did not do so. The administrative law judge enters the following decision based on the content of the administrative file, the claimant's letter, and the applicable law.

ISSUE:

Whether the claimant separated from the employment for a reason that disqualifies him for unemployment insurance benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The employer is a staffing agency. The claimant started a full-time work assignment at Grab and Go on November 14, 2011. The claimant voluntarily quit the assignment on November 17, 2011 based on an alleged safety concern. The claimant did not complete the assignment.

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.

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.

When it is in a party's power to produce more direct and satisfactory evidence than is actually produced, it may fairly be inferred that the more direct evidence will expose deficiencies in that party's case. See Crosser v. Iowa Dept. of Public Safety, 240 N.W.2d 682 (Iowa 1976).

The claimant failed to appear for the hearing to provide testimony regarding his separation from the full-time work assignment. The claimant failed to meet his burden of establishing, by a preponderance of the evidence and by direct and satisfactory evidence, that his voluntary quit was for good cause attributable to the employer. Accordingly, the claimant is disqualified for benefits until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The employer's account shall not be charged for benefits paid to the claimant.

DECISION:

The Agency representative's December 12, 2011, reference 01, decision is affirmed. The claimant voluntarily quit the employment without good cause attributable to the employer. The claimant is disqualified for benefits until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The employer's account shall not be charged.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

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