

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KEVIN L WILSON
Claimant

APPEAL NO. 08A-UI-00585-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

UPTOWN STAFFING INC
Employer

**OC: 11/25/07 R: 01
Claimant: Appellant (2)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Kevin Wilson filed an appeal from a representative's decision dated January 2, 2008, reference 02, which denied benefits based upon his separation from Uptown Staffing, Inc. After due notice was issued, a hearing was held by telephone on February 4, 2008. Mr. Wilson participated personally. The employer participated by Donna Davis.

ISSUE:

The issue in this matter is whether the claimant quit for good cause attributable to the employer.

FINDINGS OF FACT

The administrative law judge having heard the testimony and considered all of the evidence in the record, finds: The claimant last worked for this employer on December 11, 2007. Mr. Wilson was assigned as a forklift operator at Con Agra Foods as a temporary assignment and was paid by the hour. Mr. Wilson accepted the temporary assignment believing that he would be assigned to work in the company's receiving department. After testing, the claimant was informed that he would be required to work in the company's freezing department. Although the claimant protested, he was told that that was the only assignment available for him. The claimant was temporarily provided "arctic" clothing to work in the subzero temperatures that day. The claimant did not return to the assignment the following day as he had been informed that he must provide his own "arctic" clothing and the claimant believed that the assignment was substantially different than had been represented to him at the time that he had accepted it.

REASONING AND CONCLUSIONS OF LAW:

The claimant's appeal in this matter was delayed through factors beyond the control of Mr. Wilson. The evidence in the record establishes that the claimant left his employment with Uptown Staffing Inc. when he relinquished a temporary assignment and the claimant reasonably believed had been misrepresented. Mr. Wilson believed that he was accepting a short-term assignment at Con Agra Foods to work as a forklift driver in the company's receiving

department. After testing, the claimant was informed that he would be required to work in the subzero temperatures of the company's freezer area. Although the claimant protested he was instructed that he must work in the freezer and Con Agra provided an "arctic" suit for the claimant to wear that day. When informed that he would be required to provide his own "arctic" clothing the next workday, the claimant indicated that he would not be reporting back to work and immediately contacted Uptown Staffing to inform them of the circumstances regarding his leaving and to attempt to secure other work through the temporary staffing company.

871 IAC 24.26(23) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(23) The claimant left work because the type of work was misrepresented to such claimant at the time of acceptance of the work assignment.

For the reasons stated herein the administrative law judge concludes that the claimant left employment for reasons that were attributable to the employer with good cause. Unemployment insurance benefits are allowed providing the claimant meets all other eligibility requirements of Iowa law.

DECISION:

The representative's decision dated January 2, 2008, reference 02, is hereby reversed. The claimant voluntarily left work for reasons attributable to the employer. Unemployment insurance benefits are allowed, providing the claimant meets all other eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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