

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ALEJANDRO V SALDIERNA**  
Claimant

**APPEAL NO. 11A-UI-12765-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SURE STAFF**  
Employer

**OC: 08-21-11  
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Leaving

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the September 19, 2011, reference 02, decision that denied benefits. After due notice was issued, a hearing was held on October 20, 2011. The claimant did participate. The employer did not participate.

**ISSUE:**

Did the claimant voluntarily quit his employment without good cause attributable to the employer?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was living in Harlan Iowa until April 2011 when he went to Illinois to deal with a family emergency. He was in Illinois until September 8 when he returned to Iowa to his home in Harlan. While in Illinois he worked for Sure Staff a temporary agency and was assigned to work at Clearland performing maintenance work. He stopped working for Sure Staff when he needed to be at the hospital with his child and eventually when he moved back to Iowa. He was offered additional assignments from Clearland that he turned down sometimes because he did not have transportation and then when he moved back to Iowa. After his last assignment at Clearland ended he did not return to Sure Staff to seek additional work.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment without good cause attributable to the employer.

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(1), (2) 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:

(1) The claimant's lack of transportation to the work site unless the employer had agreed to furnish transportation.

(2) The claimant moved to a different locality.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980). The claimant refused at least one assignment from Sure Staff because he had no transportation. He eventually quit working for Sure Staff to move back to Iowa. He refused additional assignments from Sure Staff so he could be at the hospital. While claimant's decision to quit may have been based upon good personal reasons it was not a good-cause reason attributable to the employer for leaving the employment. Benefits must be denied.

**DECISION:**

The September 19, 2011 (reference 02) decision is affirmed. The claimant voluntarily left his employment without good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

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