

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KRISTOPHER L SMITH**  
Claimant

**APPEAL NO. 12A-UI-00242-VST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ADVANCE SERVICES INC**  
Employer

**OC: 12/04/11  
Claimant: Respondent (1)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

The employer filed an appeal from a decision of a representative dated December 30, 2011, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on February 10, 2012. Claimant participated. The employer participated by Holly Carter, an unemployment specialist. The record consists of the testimony of Holly Carter; the testimony of Kristopher Smith; and Employer's Exhibits 1-2.

**ISSUE:**

Whether the claimant voluntarily left for good cause attributable to the employer.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The employer is a temporary staffing agency. The claimant accepted his first assignment with the employer on June 30, 2010. The claimant was assigned to a warehouse in Ellsworth, Iowa. The warehouse was very dirty and the claimant requested a different assignment on August 15, 2011. The employer agreed to find the claimant a different assignment. The employer asked the claimant if he wanted to keep working until a different assignment was found and the claimant said yes.

The claimant's health continued to deteriorate. He had difficulty breathing and was throwing up all the time. On September 12, 2011, he informed the employer that he could not do this assignment any longer. He was off work and his health began to improve. He asked for another assignment on September 15, 2011. He was not provided with any other work by the employer.

## 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.

871 IAC 24.26(4) 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:

(4) The claimant left due to intolerable or detrimental working conditions.

A quit is a separation initiated by the employee. 871 IAC 24.1(113)(b). 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.

The evidence in this case established that the claimant quit his job with Advance Services, the employer in this case, by quitting the assignment he was given by Advance Services. He quit his assignment on September 12, 2011. He quit his job due to working conditions at the warehouse. The claimant described the warehouse as "nasty" and felt his respiratory and gastrointestinal problems were due to "black mold." Although the claimant does not have any medical evidence to support his claim that his working environment made him sick, his testimony is credible and corroborated by other evidence, notably that he called in sick after September 12, 2011. The claimant had asked for a new assignment back on August 15, 2011. He kept working despite his physical problems. The claimant complained to Chelsea with Advance Services about the conditions. The administrative law judge finds that the claimant did quit this assignment and therefore his job with Advance Services, on September 12, 2011, due to intolerable or detrimental working conditions.

When an individual quits his or her job due to detrimental or intolerable working conditions, the quit is considered to be for good cause attributable to the employer. Benefits are therefore allowed if the claimant is otherwise eligible.

**DECISION:**

The decision of the representative dated December 30, 2011, reference 01, is affirmed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible.

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Vicki L. Seeck  
Administrative Law Judge

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Decision Dated and Mailed

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