

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JAMES GORMAN
Claimant

APPEAL NO: 12A-UI-08318-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEMP ASSOCIATES - MARSHALLTOWN
Employer

OC: 04-18-12
Claimant: Appellant (2)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the July 5, 2012, reference 02, decision that denied benefits. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on August 6, 2012. The claimant participated in the hearing with friend/representative Shelby See. Judy Rebick, Manager and Joyce Hutcheson, Customer Service Representative, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant voluntarily left his employment with 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 employed as a full-time production laborer for Temp Associates Marshalltown last assigned to Cretex Concrete Products from April 16, 2012 to June 8, 2012. When the claimant was hired he was told he would be sanding concrete off the molds but once he started the job he was required to hold the concrete until the cranes set it down in molds, which hurt his back to the point he could no longer get out of bed and stopped going to work. The claimant told the employer the job was hurting his back but the employer did not have any other work available so the claimant returned to work for two to five days before going back to the employer June 8, 2012, when he went back and asked if it had another assignment for him but it did not so the claimant voluntarily quit his assignment.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment with good cause attributable to the employer.

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(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.

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. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2. In this case the claimant believed he would be sanding concrete off molds but instead was required to hold the concrete until the cranes set it down in molds which hurt his back to the point he could not get out of bed. Under these circumstances, the administrative law judge concludes the job was misrepresented to the claimant at the time of hire. Therefore, benefits are allowed.

DECISION:

The July 5, 2012, reference 02, decision is reversed. The claimant voluntarily left his employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs