

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KEITH A WORM**  
Claimant

**APPEAL NO: 11A-UI-02424-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MIRAGE PROPERTIES CORPORATION**  
Employer

**OC: 01/02/11**

**Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Leaving

**STATEMENT OF THE CASE:**

Keith A. Worm (claimant) appealed a representative's February 23, 2011 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits after a separation from employment from Mirage Properties Corporation (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 13, 2011. The claimant participated in the hearing. Barry Smith appeared on the employer's behalf and presented testimony from three other witnesses, Michelle Larson, Grant Guyer, and Marion Creque. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Did the claimant voluntarily quit for a good cause attributable to the employer?

**FINDINGS OF FACT:**

After a prior period of employment with the employer, the claimant most recently started working for the employer in June 2008. He worked full time as a maintenance worker at the employer's rental property. His last day of work was December 27, 2010.

On December 28 the claimant called in an absence indicating he was sick. On December 29 and December 30 he was a no-call, no-show. Other employees attempted to reach the claimant at his apartment and by contacting family, but were unsuccessful. On the evening of December 30 the claimant called the employer indicating that he had been in the hospital; he indicated that he would be in the next morning. He was told he would need to bring some medical documentation. The employer had some doubt that the claimant had in fact been in the hospital. On December 31 the claimant did come into the employer's offices. When the employer asked for his medical documentation so that it could determine if there were any medical restrictions before returning him to duty, the claimant responded that he did not have documentation, and that "nobody cares." He then turned in his keys and shirts, and left.

**REASONING AND CONCLUSIONS OF LAW:**

If the claimant voluntarily quit his employment, he is not eligible for unemployment insurance benefits unless it was for good cause attributable to the employer. Iowa Code § 96.5-1.

Rule 871 IAC 24.25 provides that, 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. A voluntary leaving of employment requires an intention to terminate the employment relationship and an action to carry out that intent. Bartelt v. Employment Appeal Board, 494 N.W.2d 684 (Iowa 1993); Wills v. Employment Appeal Board, 447 N.W.2d 137, 138 (Iowa 1989). The intent to quit can be inferred in certain circumstances. For example, failing to report and perform duties as assigned is considered to be a voluntary quit. 871 IAC 24.25(27). The claimant did exhibit the intent to quit and did act to carry it out. The claimant would be disqualified for unemployment insurance benefits unless he voluntarily quit for good cause.

The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. The claimant has not satisfied his burden. Benefits are denied.

**DECISION:**

The representative's February 23, 2011 decision (reference 01) is affirmed. The claimant voluntarily left his employment without good cause attributable to the employer. As of December 31, 2010, benefits are withheld until such time as the claimant 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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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

ld/pjs