

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CRAIG A MILES
Claimant

APPEAL NO: 08A-UI-10069-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

RGIS LLC
Employer

OC: 07/06/08 R: 04
Claimant: Appellant (1/R)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Craig A. Miles (claimant) appealed a representative's October 22, 2008 decision (reference 02) that concluded he was not qualified to receive unemployment insurance benefits after a separation from employment from RGIS, L.L.C. (employer). This appeal was consolidated for hearing with one related appeal, 08A-UI-10070-DT. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 14, 2008. The claimant participated in the hearing. Ben Stiltner appeared on the employer's behalf. 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:

The claimant started working for the employer on December 28, 2007. He worked part time (approximately 25 – 30 hours per week) as an auditor of retail inventory at Wal-Mart Stores. His last day of work prior to September 30, 2008 was August 13, 2008.

The claimant had worked in Spencer, Iowa on August 13. He was next scheduled to work on August 19 in Dubuque, Iowa, on August 20 in Cedar Rapids, Iowa, and on August 21 in Washington, Iowa. He was a no-call, no-show for those days of work. Mr. Stiltner, the district manager out of the employer's Davenport, Iowa base, attempted to contact the claimant on at least two of the days, but then determined that the claimant had voluntarily quit by job abandonment. On August 23 or August 24 the claimant returned Mr. Stiltner's call; he indicated that he had been out of town spending time with his father who was in poor health; he also did not have transportation for that time. In fact, the claimant had intended on not returning to the employer as he was planning on moving to Missouri to be with his father.

The claimant's plans later changed, and in mid-September he and Mr. Stiltner arranged that the claimant could return to work as of September 30. The claimant worked that day, October 1,

and October 2. He was scheduled to work October 7, October 8, and October 9, but was a no-call, no-show for that work, apparently due to transportation issues.

The claimant established an unemployment insurance benefit year effective July 6, 2008 because the employer did not have work for him for the week that had ended July 5. He did work the remainder of the month of July and through August 13, usually three days per week. He filed weekly claims for the last three weeks in July for which he reported no wages earned, and he filed a claim for the week ending August 9 reporting no wages earned.

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.

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. However, an intent to quit can be inferred in certain circumstances. For example, a three-day no-call, no-show in violation of company rule is considered to be a voluntary quit. 871 IAC 24.25(4). 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. Quitting to visit with a family member who is in poor health or because of a lack of transportation is not good cause attributable to the employer. 871 IAC 24.25. The claimant has not satisfied his burden. Benefits are denied.

An issue as to whether the claimant failed to report wages which could have affected his eligibility prior to his separation arose during the course of the hearing. This issue was not included in the notice of hearing for this case, and the administrative law judge does not have jurisdiction over that question. This matter is remanded to Quality Control to determine if the claimant received wages that he failed to report.

DECISION:

The representative's October 22, 2008 decision (reference 02) is affirmed. The claimant voluntarily left his employment without good cause attributable to the employer. As of August 13, 2008, 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. The matter is remanded to the Quality Control Section for investigation of the unreported wage issue.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs