

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI	
<b>ADEN M ABDI</b> Claimant	<b>APPEAL NO. 09A-UI-07938-E2T</b>
<b>KELLY SERVICES INC</b> Employer	<b>ADMINISTRATIVE LAW JUDGE DECISION</b>
	<b>OC: 04/19/09</b> <b>Claimant: Respondent (1)</b>

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

Employer filed an appeal from the May 21, 2009 reference 01, decision that allowed benefits. After due notice was issued, a telephone conference hearing was held on June 17, 2009. The claimant participated. The employer participated through Thomas Voigtman. Abdulaziz Hussen provided interpretation for the hearing.

**ISSUE:**

The issue is whether the claimant failed to report for three days and voluntarily quit his employment.

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: The claimant was hired by the employer to work for EDS. The claimant started his assignment in June 2008 and he was discharged on August 18, 2008. The claimant was told by, Chris Madson, his supervisor at EDS, his work was too slow and that EDS did not want him back at work. The claimant spoke to Omar Valasco from Kelly Services the next day. Mr. Valasco contacted Mr. Madson and told the claimant that he was not wanted at work for EDS. Thomas Voigtman testified the claimant was a three-day no-call/no-show and was terminated. Mr. Valasco did not participate in the hearing. I find that the claimant had been told he was no longer wanted on the EDS job and had been laid off by Kelly Services.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the did not voluntarily quit.

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.

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 convincing evidence is that the claimant was laid off by the employer. The claimant testified under oath that he was told by EDS and Kelly Services he was no longer needed at work.

The claimant did not quit and did not commit job-related misconduct.

**DECISION:**

The May 21, 2009, reference 01, decision is affirmed. The claimant is eligible to receive unemployment insurance benefits, provided the claimant meets all other eligibility requirements.

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James Elliott  
Administrative Law Judge

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Decision Dated and Mailed

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