

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**STEVEN T MARION**  
Claimant

**APPEAL NO. 14A-UI-00715-VST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MASTERSON PERSONNEL INC**  
Employer

**OC: 07/07/13**  
**Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

The claimant filed an appeal from a representative's decision dated January 13, 2014, reference 03, which held that the claimant was ineligible for unemployment insurance benefits. After due notice, a hearing was held on February 11, 2014. The claimant participated personally. The employer participated by Jim Robertson, unemployment operations manager, and Pat Walker, branch manager, Mason City. The record consists of the testimony of Steven Marion; the testimony of Jim Robertson; and the testimony of Pat Walker.

**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 began an assignment on September 16, 2013, for Atec, which is located in New Hampton, Iowa. He worked a variety of different jobs. He worked 40 hours per week. His last day of work was October 30, 2013. He stopped going to work for medical and other personal reasons.

On November 4, 2013, the claimant spoke to Pat Walker, the branch manager of the Mason City, Iowa, branch. He told Mr. Walker that he could not work because his hands hurt too much. He has not filed a worker's compensation claim. No doctor told him to quit his job.

**REASONING AND CONCLUSIONS OF LAW:**

871 IAC 24.25(35) provides:

Voluntary quit without good cause. 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. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa

Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(35) The claimant left because of illness or injury which was not caused or aggravated by the employment or pregnancy and failed to:

- (a) Obtain the advice of a licensed and practicing physician;
- (b) Obtain certification of release for work from a licensed and practicing physician;
- (c) Return to the employer and offer services upon recovery and certification for work by a licensed and practicing physician; or
- (d) Fully recover so that the claimant could perform all of the duties of the job.

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 claimant is not eligible for unemployment insurance benefits. The evidence established that the claimant quit his job because he felt he could not physically perform the job due to what he called arthritis and tendinitis. The claimant had suffered from both conditions for a number of years. He does not know if his current condition is work related. He has not filed a worker's compensation claim. No physician has taken him off work. He made the personal decision to quit his job. He is still having his medical problems evaluated. Under these circumstances, the claimant is deemed to have quit his job without good cause attributable to the employer. Benefits are denied.

**DECISION:**

The decision of the representative dated January 13, 2014, reference 03, is affirmed. Unemployment insurance benefits shall be withheld until the claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefits amount, provided claimant is otherwise eligible.

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Vicki L. Seeck  
Administrative Law Judge

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Decision Dated and Mailed

vls/pjs