

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ERIC S STOLTENBERG**

Claimant

**APPEAL NO. 10A-UI-04144-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CAMBRIDGE TEMPOSITIONS INC**

Employer

**OC: 01/03/10**

**Claimant: Respondent (2-R)**

Iowa Code section 96.5(1) – Voluntary Quit

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the March 10, 2010, reference 02, decision that allowed benefits. After due notice was issued, a hearing was held on May 3, 2010. Claimant Eric Stoltenberg was not available at the number he provided for the hearing and did not participate. Elaine Pruett, Account Manager, represented the employer. Exhibit One was received into evidence.

**ISSUE:**

Whether the claimant's separation from the temporary employment agency was for good cause attributable to the employer.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Eric Stoltenberg established his employment relationship with Cambridge Tempositions in June 2009 and performed in two assignments. The first assignment was a one-day assignment on June 8, 2009. Mr. Stoltenberg completed that assignment. The second work assignment started on June 22, 2009. The assignment was a full-time temporary position at Heinz Quality Chef Foods. Mr. Stoltenberg did not complete the assignment. Mr. Stoltenberg last performed work in the assignment on December 22, 2009. On December 23, 2009, Mr. Stoltenberg notified the supervisor at Heinz that his girlfriend had left him and that he was not coming to work. Mr. Mr. Stoltenberg did not make further contact with the employer until January 4, 2010.

**REASONING AND CONCLUSIONS OF LAW:**

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.

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 weight of the evidence indicates that Mr. Stoltenberg voluntarily quit for personal reasons and not for good cause attributable to the employer. Mr. Stoltenberg's voluntarily quit the employment without good cause attributable to the employer. Mr. Stoltenberg is disqualified for benefits until he has worked in and been paid wages for insured work equal to ten times he weekly benefit amount, provided he is otherwise eligible. The employer's account shall not be charged for benefits paid to Mr. Stoltenberg.

Iowa Code section 96.3(7) provides that benefits must be recovered from a claimant who receives benefits and is later determined to be ineligible for benefits, even though the claimant acted in good faith and was not otherwise at fault. The overpayment recovery law was updated in 2008. See Iowa Code section 96.3(7)(b). Under the revised law, a claimant will not be required to repay an overpayment of benefits if all of the following factors are met. First, the prior award of benefits must have been made in connection with a decision regarding the claimant's separation from a particular employment. Second, the claimant must not have engaged in fraud or willful misrepresentation to obtain the benefits or in connection with the Agency's initial decision to award benefits. Third, the employer must not have participated at the initial fact-finding proceeding that resulted in the initial decision to award benefits. If Workforce Development determines there has been an overpayment of benefits, the employer will not be charged for the benefits, regardless of whether the claimant is required to repay the benefits.

Because the claimant has been deemed ineligible for benefits, any benefits the claimant has received would constitute an overpayment. Accordingly, the administrative law judge will remand the matter to the Claims Division for determination of whether there has been an overpayment, the amount of the overpayment, and whether the claimant will have to repay the benefits.

#### **DECISION:**

The Agency representative's March 10, 2010, reference 02, decision is reversed. The claimant voluntarily quit the employment without good cause attributable to the employer. The claimant is disqualified for benefits until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The employer's account shall not be charged.

This matter is remanded to the Claims Division for determination of whether there has been an overpayment, the amount of the overpayment, and whether the claimant will have to repay the benefits.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

jet/css