

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

WILFREDO NAZARIO
Claimant

APPEAL NO. 11A-UI-02047-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEAM STAFFING SOLUTIONS INC
Employer

OC: 12/19/10
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Wilfredo Nazario (claimant) appealed a representative's February 11, 2011 decision (reference 04) that concluded he was not qualified to receive unemployment insurance benefits after a separation from employment from Team Staffing Solutions, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 16, 2011. The claimant failed to respond to the hearing notice and provide a telephone number at which he could be reached for the hearing and did not participate in the hearing. Sarah Fiedler appeared on the employer's behalf. Based on the evidence, the arguments of the employer, 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 employer is a temporary employment firm. The claimant's first and only assignment with the employer began on October 21, 2010. He worked full time as a packaging laborer on a 3:30 p.m.-to-1:00 a.m. schedule, Tuesday through Friday, at the employer's Iowa City, Iowa business client. His last day on the assignment was the shift that began on the evening of January 7 into the morning of January 8, 2011. The assignment had been intended to continue indefinitely, but ended at that point because the claimant did not return to work. He was next scheduled to work on January 11, but was a no-call, no-show for his shift. When the employer called him at about 3:30 p.m. to inquire about his status, he indicated that he was leaving for another Iowa town for a family issue, was unsure when he would be able to return, but would recontact the employer when he became available. The claimant did not recontact the employer for work, but subsequently did return the business client's protective gear to the employer's Muscatine, Iowa office. Continued work had been available on the assignment if he had not 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 claimant did express or exhibit the intent to cease working for the employer 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 11, 2011 decision (reference 04) is affirmed. The claimant voluntarily left his employment without good cause attributable to the employer. As of January 11, 2011, 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.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/kjw