

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ALBERTO G ARELLANO
Claimant

APPEAL NO. 10A-UI-09568-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEAM STAFFING SOLUTIONS INC.
Employer

OC: 06/13/10
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit
Section 96.5-1-J – Separation from Temporary Employment

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated July 6, 2010, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on August 16, 2010. Claimant participated. Employer participated by Sarah Fiedler, Claims Administrator. The record consists of the testimony of Sarah Fiedler and the testimony of Albert Arellano. Ana Cox served as Spanish interpreter.

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 first began accepting assignments from the employer on November 5, 2001. On December 8, 2008, the claimant was placed on an indefinite assignment with Grain Processing, an employer located in Muscatine, Iowa.

On May 25, 2010, the claimant informed the employer that he wanted to give notice that he no longer wanted to work at Grain Processing. He gave that notice formally on June 4, 2010, and said that his last day would be June 19, 2010. On June 8, 2010, that employer received an email from Grain Processing that the claimant had walked off the job at 6:00 a.m., prior to the end of his shift. Work was available for the claimant had he elected to work until the end of his notice period.

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.

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 evidence in this case established that it was the claimant who initiated the separation of employment. The claimant informed the employer on May 25, 2010, that he did not like working at Grain Processing. He gave notice on June 4, 2010, that his last day would be June 19, 2010. He walked off the job on June 8, 2010, prior to the end of his shift. The claimant testified that he was terminated on June 8, 2010. The claimant said someone terminated him because he was going to get a drink of water too often. The claimant testified that he had been having bloody noses and that was why he was getting drinks of water.

The claimant could not identify who terminated him. According to Ms. Fiedler, Grain Processing did have the right to inform Team Staffing that it wanted to end an assignment for a particular individual. No request was made by Grain Processing to terminate the claimant. Rather the information received was that the claimant walked off the job. The employer's testimony is accepted. Since the claimant elected to end the assignment and there is no evidence of good cause attributable to the employer, benefits are denied.

DECISION:

The decision of the representative dated July 6, 2010, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/css