

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MICHAEL J GEARY
Claimant

APPEAL NO. 11A-UI-02121-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

RIVERSIDE STAFFING SERVICES INC
Employer

OC: 01/02/11
Claimant: Appellant (1)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Michael Geary filed a timely appeal from the February 22, 2011, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on April 8, 2011. Mr. Geary provided a telephone number for the hearing, but was not available at that number at the scheduled time of the hearing. Stacy Dixon, Office Manager, represented the employer.

ISSUE:

Whether Mr. Geary separated from the employer for a reason that disqualifies him for unemployment insurance benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The employer is a staffing agency. Michael Geary started his most recent assignment with the employer on November 24, 2010. The assignment was a full-time, temp-to-hire position. The work hours were 7:00 a.m. to 3:30 p.m., Monday through Friday. Mr. Geary last performed work in the assignment in December 3, 2010. Mr. Geary was a no-call/no-show for his shift on December 8, 2010 and did not return to the assignment. Mr. Geary did not complete the assignment and the employer continued to have work for Mr. Geary in the assignment at the time he ceased appearing for work. After Mr. Geary quit, he contacted the employer only for the purpose of complaining about some miscalculation of his taxes. At that time, Mr. Geary indicated that he had quit the assignment because it was too cold. The assignment had been an indoor assignment. The assignment had not involved work in a refrigerated area or outdoor work.

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 in the record establishes that Mr. Geary voluntarily quit the employment effective December 8, 2010 for personal reasons and not for good cause attributable to the employer. Mr. Geary 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 for benefits paid to Mr. Geary.

DECISION:

The Agency representative's February 22, 2011, reference 01, decision is affirmed. 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.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

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