

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**JOSHUA J RUSH**  
Claimant

**ADVANCE SERVICES INC**  
Employer

**APPEAL 14A-UI-12605-GT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 11/16/14  
Claimant: Respondent (1)**

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Iowa Code § 96.5(1) – Voluntary Quitting

**STATEMENT OF THE CASE:**

Employer filed an appeal from a decision of a representative dated December 5, 2014, (reference 02) that held claimant eligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on January 5, 2015. Claimant participated. Employer participated by Michael Payne, Risk Manager.

**ISSUE:**

The issue in this matter is whether claimant quit for good cause attributable to employer.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on October 29, 2014. Claimant contacted Advanced Services and requested a new job assignment on that date. Claimant explained that at his current assignment the employer was overloading and speeding up a production device making it very unsafe.

Employer explained that there was not another assignment for claimant at that time, and that if he did not return to his current work assignment he would be quitting his job with that agency. Claimant did not return to his current assignment at that time, and he was not offered a different work assignment by the employer.

**REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge holds that the evidence has established that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because his current work assignment was unsafe.

Iowa Code § 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.

Iowa Admin. Code r. 871-24.26(4) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(4) The claimant left due to intolerable or detrimental working conditions.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980).

Individuals who leave their employment due to disparate treatment are considered to have left work due to intolerable or detrimental working conditions and their leaving is deemed to be for good cause attributable to the employer. The test is whether a reasonable person would have quit under the circumstances. See *Aalbers v. Iowa Dep't of Job Serv.*, 431 N.W.2d 330 (Iowa 1988) and *O'Brien v. Emp't Appeal Bd.*, 494 N.W.2d 660 (Iowa 1993). Claimant's actions were reasonable under the circumstances. Claimant contacted the employment agency and requested a new assignment because the factory where he had been assigned was overloading a crane, and at times pieces of heavy metal would fall endangering workers. Claimant explained that to the employer, and he did request a new assignment. The conditions at his current job assignment were intolerable, and detrimental to his health.

#### **DECISION:**

The decision of the representative dated December 5, 2014, (reference 02) is affirmed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible.

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Duane L. Golden  
Administrative Law Judge

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Decision Dated and Mailed

dlg/pjs