

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ADAM N SPILLMAN
Claimant

APPEAL NO. 13A-UI-01783-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**CLINTON STAFFING CO
ALLSTAR STAFFING**
Employer

OC: 12/30/12
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the February 7, 2013 (reference 02) decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call on March 28, 2013. Claimant participated. Employer participated through branch manager, Sue Watkins and lead client relations manager, Jane Brown.

ISSUE:

Did claimant voluntarily quit the employment with good cause attributable to employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time as a laborer assigned for nine months assigned at Timken Drives in Fulton, Illinois and quit the employment on January 2, 2013. His last day of work was December 28, 2012. He called off sick on January 2 but the same day asked Watkins to find a job in Clinton since he had hit a deer on New Year's Eve. There were no jobs in Clinton but continued work was available at Timken Drives. The human resources generalist at Timken Drives reported to Watkins that claimant had been calling off sick to try to get fired so he could collect unemployment insurance benefits.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was without good cause attributable to the employer.

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.

871 IAC 24.25(1) provides:

Voluntary quit without good cause. 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. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code § 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code § 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(1) The claimant's lack of transportation to the work site unless the employer had agreed to furnish transportation.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). His admission that he lied to the employer about being ill on January 2 and later admitting he could not get to work because of hitting a deer is consistent with the report he had been calling off sick because he wanted to get fired and collect unemployment insurance benefits. Thus, employer's testimony is credible as to disputes of fact. Claimant's leaving the employment because he lost his transportation renders the separation without good cause attributable to the employer. Benefits are denied.

DECISION:

The February 7, 2013 (reference 02) decision is affirmed. Claimant voluntarily left the employment without good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/css