

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MICHAEL D STOFFERAN
Claimant

APPEAL NO. 10A-UI-01668-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ROSENBOOM MACHINE & TOOL INC
Employer

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

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Michael Stofferan filed a timely appeal from the February 1, 2011, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on March 10, 2011. Mr. Stofferan participated and presented additional testimony through Janice Moeller. Craig Van Drunen represented the employer. Exhibit One was received into evidence.

ISSUE:

Whether Mr. Stofferan voluntarily separated from the employment 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: Michael Stofferan was employed by Rosenboom Machine & Tool, Inc., as a full-time general production employee/welder from July 6, 2010 until August 9, 2010, when he voluntarily quit the employment. Mr. Stofferan last performed work for the employer on July 29, 2010 and then was off work several days due to illness.

On August 9, 2010, Mr. Stofferan telephoned Craig Van Drunen, human resources generalist, and notified Mr. Van Drunen that he was quitting the employment so that he could relocate to the Des Moines area and find work there. The employer continued to have work for Mr. Stofferan. The workplace, and Mr. Stofferan's residence during the employment, was in northwest Iowa.

Mr. Stofferan's quit and relocation were prompted by his mother's request that he come live with her to assist her with ongoing health issues. Mr. Stofferan's mother, Janice Moeller, resides in Panora. Mr. Stofferan relocated to Panora. Mr. Stofferan sought employment in central Iowa and started a new full-time position on March 7, 2011. Mr. Stofferan continues to reside with and assist his mother in Panora. Since Mr. Stofferan separated from the employment with Rosenboom Machine & Tool, Inc., he has not returned to offer his services.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5-1-c 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. But the individual shall not be disqualified if the department finds that:

c. The individual left employment for the necessary and sole purpose of taking care of a member of the individual's immediate family who was then injured or ill, and if after said member of the family sufficiently recovered, the individual immediately returned to and offered the individual's services to the individual's employer, provided, however, that during such period the individual did not accept any other employment.

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.

When a worker voluntarily quits employment to relocate to a new locality, the worker is presumed to have voluntarily quit without good cause attributable to the employer. See 871 IAC 24.25(2).

When a worker voluntarily quits employment due to family responsibilities or serious family needs, the worker is presumed to have voluntarily quit without good cause attributable to the employer. See 871 IAC 24.25(23).

The evidence establishes that Mr. Stofferan voluntarily quit the employment to relocate to central Iowa so that he could assist his mother with her serious health issues. Since Mr. Stofferan left the employment, his mother has not recovered from her illness and Mr. Stofferan has not returned to the employer to offer his services. Since the separation, Mr. Stofferan has accepted and has started other employment. The evidence establishes a voluntary quit without good cause attributable to the employer. Mr. Stofferan 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. Stofferan.

DECISION:

The Agency representative's February 1, 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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