

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DANIEL W BIRDSLEY
Claimant

APPEAL NO. 09A-UI-08054-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ALLSTEEL INC
Employer

OC: 01/25/09
Claimant: Appellant (1)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Daniel Birdsley filed an appeal from a representative's decision dated May 26, 2009, reference 01, which denied benefits based on his separation from Allsteel, Inc. After due notice was issued, a hearing was held by telephone on June 22, 2009. Mr. Birdsley participated personally. The employer participated by Arnie Maldonado, Human Resources Generalist, and was represented by Kenny Johnson of Employers Edge.

ISSUE:

At issue in this matter is whether Mr. Birdsley was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Birdsley was employed by Allsteel, Inc. from July 28, 2003 until April 13, 2009 as a full-time production worker. He quit the employment and told the employer he needed to find a job with different hours. He wanted a first shift position because he anticipated having custody of a 12-year-old family member.

Mr. Birdsley's former job was eliminated in December of 2008 and he was placed on a shift that ran from 3:30 p.m. until 1:30 a.m. He spoke to his supervisor about moving to first shift but no changes were made as the employer did not have openings on that shift. According to the employee handbook, employees are to contact the human resources department to request shift changes. Mr. Birdsley did not go over his supervisor or to human resources to request a shift change before quitting.

After his position was eliminated in December of 2008, Mr. Birdsley retained his former pay of \$16.35 per hour for 90 days following the change. As of February 8, 2009, his pay was \$14.60 per hour. He never notified the employer that he intended to quit because of his shift assignment, his wages, or any other work-related matter. Continued work would have been available if he had not quit.

REASONING AND CONCLUSIONS OF LAW:

An individual who leaves employment voluntarily is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). The primary reason Mr. Birdsley quit his job was that he wanted different hours. Since he was going to have a 12-year-old in his care, his hours of 3:30 p.m. until 1:30 a.m. were no longer viable. The administrative law judge concludes that he quit because of serious family needs or responsibilities. An individual who quits under such circumstances is presumed to have left employment without good cause attributable to the employer. 871 IAC 24.25(23).

The administrative law judge appreciates that there had been changes made in Mr. Birdsley's shift assignment and wages. However, he acquiesced to the changes by remaining in the employment for a substantial amount of time after the changes. Moreover, he never put the employer on notice of his intention to quit if changes were not made in either his shift assignment or wages. Therefore, he deprived the employer of a full and fair opportunity to see what steps could be taken to salvage the employment relationship.

For the reasons stated herein, the administrative law judge concludes that Mr. Birdsley did not have good cause attributable to the employer for quitting. Accordingly, benefits are denied.

DECISION:

The representative's decision dated May 26, 2009, reference 01, is hereby affirmed. Mr. Birdsley quit his employment with Allsteel, Inc. for no good cause attributable to the employer. Benefits are withheld until he has worked in and been paid wages of insured work equal to ten times his weekly job insurance benefit amount, provided he is otherwise eligible.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/css