

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

JESSE L SEATON
940 S 27TH ST APT 22
CLARINDA IA 51632

MANPOWER INTERNATIONAL INC
MANPOWER TEMPORARY SERVICES
C/o FRICK UC EXPRESS
PO BOX 66864
ST LOUIS MO 63166-6464

AMENDED

Appeal Number: 050-UI-03640-BT
OC: 12/05/04 R: 01
Claimant: Respondent (2)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the ***Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.***

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Manpower Temporary Services (employer) appealed an unemployment insurance decision dated January 14, 2005, reference 02, which held that Jesse Seaton (claimant) was eligible for unemployment insurance benefits. Administrative Law Judge Scheetz conducted an initial hearing on this matter in appeal 05A-UI-01070-S2T in which benefits were allowed. The employer appealed the decision indicating it did not participate due to the judge not calling the employer. The Employment Appeal Board remanded for a new hearing in an order dated April 5, 2005. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 27, 2005. The claimant did not comply with the hearing

notice instructions and did not call in to provide a telephone number at which he could be contacted, and therefore, did not participate. The employer participated through Todd Achenfelter, Staffing Specialist.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time inspector/material handler from May 13, 2004 through November 11, 2004. His previous assignment ended on August 10, 2004. The employer offered him a new assignment but the claimant had to take a drug test before being hired. The claimant went to take a drug test on November 11, 2004 but the sample was invalid as it was below body temperature. The claimant was requested to provide another urine sample but he refused and left. The employer never heard from him after that.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the reasons for the claimant's separation from employment qualify him to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if he voluntarily quit without good cause attributable to the employer. Iowa Code § 96.5-1.

Rule 871 IAC 24.25 provides that, 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. 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); Peck v. Employment Appeal Bd., 492 N.W.2d 438, 440 (Iowa Ct. App. 1992). The claimant demonstrated his intent to quit and acted to carry it out when he refused to provide another urine sample for a potential job and never spoke with the employer after that date.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. The claimant failed to participate in the hearing and has not satisfied that burden. Benefits are denied.

DECISION:

The unemployment insurance decision dated January 14, 2005, reference 02, is reversed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

sdb/sc