

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROBERT D SAMMONS

Claimant

APPEAL NO. 10A-UI-04063-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

TRADESMEN INTERNATIONAL INC

Employer

OC: 01/31/10

Claimant: Appellant (4R)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated March 9, 2010, reference 02, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on May 13, 2010. Claimant participated. Employer participated by Matt Peterson, Office Manager. The record consists of the testimony of Robert Sammons and the testimony of Matt Peterson.

ISSUE:

Whether the claimant voluntarily left for good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The employer is a temporary employment agency that provides construction labor support for contractors. The claimant applied for temporary assignments from the employer in April or May 2009. The claimant was hired as an electrician and placed in the pool of employees that were available for assignment to contractors. The claimant was given an assignment for a contractor in Dubuque, Iowa. That assignment ended on September 29, 2009. The claimant did not quit that assignment nor was he discharged for any reason by the contractor. The contractor did not have any more work for the claimant to do and that is why the assignment ended. The employer did not have another assignment for the claimant following the end of this assignment on September 29, 2009.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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.

A quit is a separation initiated by the employee. 871 IAC 24.1(113)(b). 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.

871 IAC 24.26(19) 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:

(19) The claimant was employed on a temporary basis for assignment to spot jobs or casual labor work and fulfilled the contract of hire when each of the jobs was completed. An election not to report for a new assignment to work shall not be construed as a voluntary leaving of employment. The issue of a refusal of an offer of suitable work shall be adjudicated when an offer of work is made by the former employer. The provisions of Iowa Code section 96.5(3) and rule 24.24(96) are controlling in the determination of suitability of work. However, this subrule shall not apply to substitute school employees who are subject to the provisions of Iowa Code section 96.4(5) which denies benefits that are based on service in an educational institution when the individual declines or refuses to accept a new contract or reasonable assurance of continued employment status. Under this circumstance, the substitute school employee shall be considered to have voluntarily quit employment.

The claimant was hired on a temporary basis for assignment to a spot job or casual labor and completed his work assignment on September 29, 2009. His separation was for no disqualifying reason.

There was testimony that the claimant has been offered other jobs by the employer since September 29, 2009. The issue of whether the claimant refused an offer of suitable work is remanded for determination..

DECISION:

The decision of the representative dated March 9, 2010, reference 02, is modified in favor of the appellant. The claimant's separation of employment on September 29, 2009, was for no disqualifying reason. This matter is remanded for determination of whether the claimant refused an offer of suitable work from the employer.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/css