

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JEFF E FOERTSCH
Claimant

APPEAL NO. 10A-UI-00188-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

TRADESMEN INTERNATIONAL INC
Employer

OC: 11-22-09
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the December 31, 2009, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on February 15, 2010. The claimant did participate. The employer did participate through James Simone, Project Coordinator. Claimant's Exhibit A was received.

ISSUE:

Did the claimant voluntarily quit his employment without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: Claimant was employed as an apprentice electrician full time beginning June 19, 2009 through November 18, 2009 when he voluntarily quit.

The claimant had been given the employer's call in policy and knew or should have known that he was to call the foreman and the Tradesman office on each day he was going to miss work. The claimant never called the Tradesman office to report his absences and did not even call his foreman on each day he missed work. The claimant was a no call-no show for work on November 16, 17, 18 in violation of the employer's policy. The claimant's own cell phone records show he did not call each day he missed work. Additionally, the claimant did not submit any other records to show he called in on another phone each day he missed work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left employment 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(4) 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:

(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

An employer is entitled to expect its employees to report to work as scheduled or to be notified when and why the employee is unable to report to work. Inasmuch as the claimant failed to report for work or notify the employer for three consecutive workdays in violation of the employer policy, the claimant is considered to have voluntarily left employment without good cause attributable to the employer. Benefits are withheld.

DECISION:

The December 31, 2009, reference 01, decision is affirmed. The claimant voluntarily left 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.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/pjs